



# Local Pension Board Conflicts of Interest Policy

1 October 2019

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## **1. Introduction**

- 1.1. This is the Conflicts of Interest Policy for Dorset County Pension Fund, which is administered by Dorset Council (the Administering Authority).
- 1.2. This Policy is established to guide Pension Board members. It aims to ensure that they do not act improperly or create a perception that they may have acted improperly. It is an aid to good governance, encouraging transparency and minimising the risk of any matter prejudicing decision making or management of the Fund otherwise.
- 1.3. It should be noted that the Pension Board does not make decisions in relation to the administration and management of the Fund (this rests with the Administering Authority) and it is not anticipated that significant conflicts will arise. Nevertheless, steps need to be taken to identify, monitor and manage conflicts effectively.
- 1.4. LGPS administering authorities have a fiduciary and legal duty to act in the best interests of both the scheme beneficiaries and participating employers. This does not prevent those involved in the management of the fund from having other roles or responsibilities which may result in a conflict of interest arising.
- 1.5. This Policy sets out the procedures in place to ensure that interests are declared, potential conflicts are identified, and how any such conflicts or potential conflicts are to be managed.

## **2. Policy Objectives**

2.1. The Fund's objectives relating to conflicts of interest are to:

- Ensure that all Pension Board members comply with their statutory requirements under the Public Service Pensions Act 2013 and associated regulations and guidance.
- Ensure all Pension Board members have appropriate information for making an informed decision on whether there is a potential conflict of interest (prior or post appointment).
- Ensure that all Pension Board members are aware of their duty to act independently and carry out their roles to a high ethical standard.
- Remove any perception that the actions of the Pension Board members are influenced by the presence of a separate responsibility or interest that conflict with their responsibilities as a Pension Board member.
- Maintain appropriate records of declared conflicts of interest and manage any potential conflicts to ensure they do not become actual or perceived conflicts of interest.
- Ensure that public confidence in the governance of Dorset County Pension Fund is maintained.

## **3. Effective date & review**

3.1. This Policy was approved by the Pension Board on 24 September 2019 and is effective from 1 October 2019.

3.2. This Policy is expected to be appropriate for the long-term but it will be reviewed every two years, and if necessary, more frequently to ensure it remains accurate and relevant.

## **4. Application**

4.1. This Policy applies to all members of the Pension Board, to all members of the Dorset County Pension Fund Management Team and also its advisers.

4.2. This Policy and the issue of conflicts of interest in general must be considered in light of each individual's role, whether this is a management, advisory or assisting role.

4.3. Advisers are all expected to have their own policies or protocols on how conflicts of interest will be managed in their relationships with their clients, and these must be shared with the Fund.

4.4. In this Policy, reference to advisers includes all advisers, suppliers and other parties providing advice and services to the Administering Authority in relation to pension fund matters. This includes but is not limited to actuaries, investment consultants, independent advisers, benefits consultants, third party administrators, fund managers, lawyers, custodians and AVC providers.

4.5. In accepting any role covered by this Policy, those individuals agree that they must:

- acknowledge any potential conflict of interest they may have
- be open with the Administering Authority on any conflicts of interest they may have
- adopt practical solutions to managing those conflicts, and
- plan ahead and agree with the Administering Authority how they will manage any conflicts of interest which arise in future.

The procedures outlined later in this Policy provide a framework for each individual to meet these requirements.

## 5. Legal Requirements

5.1. There are a number of requirements relating to the management of potential or actual conflicts of interest for those involved in LGPS funds which are included in legislation or guidance. These are summarised in Appendix 1.

## 6. What is a Conflict or Potential Conflict?

6.1. A conflict of interest may arise when an individual has a responsibility or duty in relation to the management of, or provision of advice to Dorset County Pension Fund and at the same time has:

- a separate personal interest (financial or otherwise) or
- another responsibility in relation to that matter, giving rise to a possible conflict with their first responsibility.

6.2. An interest could also arise due to a family member or close colleague having a specific responsibility or interest in a matter.

6.3. The key issue for a member of the Pension Board is to consider whether they are subject to a conflict of interest which prevents them from acting entirely independently in their capacity as a member of the Pension Board.

6.4. It is recognised that from time to time a person may have interests or responsibilities which are not aligned with their responsibilities as a member of the Pension Board, but these do not prevent the person from fulfilling their responsibilities as a Pension Board member.

6.5. Examples of conflicts of interest are contained in Appendix 2.

## 7. Responsibility

7.1. Dorset Council as the administering authority for the Dorset County Pension Fund must be satisfied that conflicts of interest are appropriately managed and maintain a register of interests so declared.

7.2. However, it is the responsibility of each individual covered by this Policy to identify any potential instances where their personal, financial, business or other interests might come into conflict with their pension fund duties.

7.3. The Regulations place a duty on the administering authority to satisfy itself that those appointed do not have an actual conflict of interest prior to appointment and “from time to time” thereafter.

## **8. Operational procedure for Pension Board members**

8.1. The following procedures must be followed by all individuals to whom this policy applies.

### **8.2. Initial declaration of any interest which does or could give rise to a conflict:**

- On appointment to their role or on the commencement of this Policy if later, all individuals will be provided with a copy of this Policy and be required to complete a Declaration of Interest.
- These declarations will be collated into the Pension Board Register of conflicts of interest and published on the administering authority’s website.

### **8.3. Ongoing notification of potential or actual conflicts of interest:**

- At the commencement of every Pension Board meeting, the Chairman will ask all those present who are covered by this policy to declare any potential conflicts.
- Any new interests declared will be recorded in the Pension Board Register of Conflicts of Interests.
- Any member who considers that they, or another individual, has a potential or actual conflict of interest, as defined by this Policy, which relates to an item of business at a meeting, must advise the Chairman prior to the meeting, where possible, or state this clearly at the meeting at the earliest possible opportunity.

### **8.4. Periodic review of potential or actual conflicts of interest.**

- Every 12 months, members of the Pension Board will complete a new Declaration of Interest confirming that their information held in the Pension Board Register of Conflicts of Interests is correct or highlighting any changes that need to be made.

## **9. Monitoring and reporting**

9.1. In order for the Administering Authority to fulfil its obligation to ensure that members of the Pension Board do not have a conflict of interest, an item on conflicts of interest must be included at each meeting of the Pension Board.

9.2. The Register of Conflicts of Interest may be viewed by any interested party on request. In addition, it will be published on the Dorset County Pension Fund website and in the annual report and accounts.

9.3. In order to identify whether the objectives of this Policy are being met the Administering Authority will review the Register of Conflicts of Interest on an annual basis and consider whether there have been any potential or actual conflicts of interest that were not declared at the earliest opportunity.

- 9.4. The Pension Board is required to evaluate the nature of any dual interests and responsibilities, assess the impact on operations and governance were a conflict of interest to materialise, and seek to prevent a potential conflict of interest becoming detrimental to the conduct or decisions of the Pension Board. If appropriate, the Pension Board may consider seeking independent legal advice or advice from external advisers where necessary on how to deal with these issues.

## 10. Managing conflicts of interest

- 10.1. In the event that the Pension Board is of the view that a potential conflict of interest may become an actual or perceived conflict, the Pension Board must determine the appropriate procedure for managing that conflict. The action taken will depend on the nature and extent of the potential conflict.
- 10.2. Some possible methods for the management of potential conflicts are given below:
- The Pension Board can require that the member for whom the conflict exists takes no part in discussions or does not vote in respect of the matter for which they are conflicted.
  - If practical the member may relinquish or divest themselves of a personal interest which is the source of a conflict of interest with the Pension Board.
  - If the conflict is likely to be ongoing in such a way that it is likely to limit a Pension Board member's meaningful participation in the Pension Board, that member should consider resigning from their position.
  - The Scheme Manager may remove any individual from the Pension Board where they consider there is an actual conflict of interest or a potential conflict which is impractical to manage.

## 11. Key Risks

- 11.1. The key risks to the delivery of this Policy are outlined below. All of these could result in an actual conflict of interest arising and not being properly managed. The Pensions Manager will monitor these and other key risks and consider how to respond to them.
- Insufficient training or poor understanding in relation to individuals' roles on pension fund matters;
  - Insufficient training or failure to communicate the requirements of this Policy;
  - Absence of the individual nominated to manage the operational aspects of this Policy and no one deputising, or failure of that individual to carry out the operational aspects in accordance with this Policy; and
  - Failure by a chairperson to take appropriate action when a conflict is highlighted at a meeting.

## **12. Costs**

- 12.1. All costs related to the operation and implementation of this Policy will be met directly by Dorset County Pension Fund. However, no payments will be made to any individuals in relation to any time spent or expenses incurred in the disclosure or management of any potential or actual conflicts of interest under this Policy.

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## Appendix 1

### Legislation, Regulation and Guidance on Conflicts of Interest

The requirements in relation to the management of potential or actual conflicts of interest for those involved in LGPS funds are contained in various elements of legislation and guidance.

#### The Public Service Pensions Act 2013 – Section 5 (4)

The regulations must include provision—

- (a) requiring the scheme manager—
  - (i) to be satisfied that a person to be appointed as a member of the board does not have a conflict of interest, and
  - (ii) to be satisfied from time to time that none of the members of the board has a conflict of interest;
- (b) requiring a member of the board, or a person proposed to be appointed as a member of the board, to provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of provision under paragraph (a);

In subsection (4)(a) “conflict of interest”, in relation to a person, means a financial or other interest which is likely to prejudice the person's exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme).

#### The Local Government Pension Scheme Regulations 2013 (Regulation 108)

- (1) Each administering authority must be satisfied that any person to be appointed as a member of a local pension board does not have a conflict of interest.
- (2) An administering authority must be satisfied from time to time that none of the members of a local pension board has a conflict of interest.
- (3) A person who is to be appointed as a member of a local pension board by an administering authority must provide that authority with such information as the authority reasonably requires for the purposes of paragraph (1).
- (4) A person who is a member of a local pension board must provide the administering authority which made the appointment with such information as that authority reasonably requires for the purposes of paragraph (2).

#### The Pensions Act 2004

The Public Service Pensions Act 2013 added a number of provisions to the Pensions Act 2004 related to the governance of public service pension schemes and, in particular, conflicts of interest.

Section 90a requires the Pensions Regulator to issue a code of practice relating to conflicts of interest for pension board members. The Pensions Regulator has issued such a code and this Conflicts of Interest Policy has been developed having regard to that code. The guidance can be viewed at [www.thepensionsregulator.gov.uk/guidance/guidance-conflicts-of-interest.aspx](http://www.thepensionsregulator.gov.uk/guidance/guidance-conflicts-of-interest.aspx)

#### Code of Practice 14: Governance and administration of public service pension schemes

Conflicts of interest and representation are covered in sections 61 – 91. This includes legal requirements, practical guidance, managing potential conflicts of interest and identifying, monitoring and managing potential conflicts.



**The Seven Principles of Public Life (aka ‘Nolan Principles’)**

These apply to anyone who works as a public office-holder, including people who are elected or appointed to public office, nationally and locally, and all staff in:

- the civil service
- local government
- the police
- the courts and probation services
- non-departmental public bodies
- health, education, social and care services

These principles are integral to the successful implementation of this Policy. The principles are:

- selflessness
- integrity
- objectivity
- accountability
- openness
- honesty
- leadership.

## Appendix 2

### Examples of conflicts of interest (as defined in Code of Practice 14)

Below are some examples of potential or actual conflicts of interest which could arise, or be perceived to arise, in relation to public service pension schemes. These will depend on the precise role, responsibilities and duties of a pension board. The examples provided are for illustrative purposes only and are not exhaustive. They should not be relied upon as a substitute for the exercise of judgement based on the principles set out in this code and any legal advice considered appropriate, on a case-by-case basis.

#### **a. Investing to improve scheme administration versus saving money**

An employer representative, who may be a Permanent Secretary, finance officer or local councillor, is aware that system X would help to improve standards of record-keeping in the scheme, but it would be costly to implement. The scheme manager, for instance a central government department or local administering authority, would need to meet the costs of the new system at a time when there is internal and external pressure to keep costs down. In order to meet the costs of the new system, the scheme manager would need to find money, perhaps by using a budget that was intended for another purpose. This decision could prove unpopular with taxpayers. A conflict of interest could arise where the employer representative was likely to be prejudiced in the exercise of their functions by virtue of their dual interests.

#### **b. Outsourcing an activity versus keeping an activity in-house**

In an extension of the previous example, a member representative, who is also an employee of a participating employer, is aware that system X would help to improve standards of record-keeping in the scheme, but it would mean outsourcing an activity that is currently being undertaken in-house by their employer. The member representative could be conflicted if they were likely to be prejudiced in the exercise of their functions by virtue of their employment.

#### **c. Representing the breadth of employers or membership versus representing narrow interests**

An employer representative who happens to be employed by the administering authority and is appointed to the pension board to represent employers generally could be conflicted if they only serve to act in the interests of the administering authority, rather than those of all participating employers. Equally, a member representative, who is also a trade union representative, appointed to the pension board to represent the entire scheme membership could be conflicted if they only act in the interests of their union and union membership, rather than all scheme members.

#### **d. Assisting the scheme manager versus furthering personal interests**

A pension board member, who is also a scheme adviser, may recommend the services or products of a related party for which they might derive some form of benefit, resulting in them not providing, or not being seen to provide, independent advice or services

A pension board member who is involved in procuring or tendering for services for a scheme administrator, and who can influence the award of a contract, may be conflicted where they have an interest in a particular supplier, for example, a family member works there.

**e. Sharing information with the pension board versus a duty of confidentiality to an employer**

An employer representative has access to information by virtue of their employment, which could influence or inform the considerations or decisions of the pension board. They have to consider whether to share this information with the pension board in light of their duty of confidentiality to their employer. Their knowledge of this information will put them in a position of conflict if it is likely to prejudice their ability to carry out their functions as a member of the pension board.