

APPENDIX 2

Conflict of Interest Policy: Lewisham Pension Board March 2018

1. Introduction

- 1.1 There are various legal requirements which need to be considered to make sure that sound governance principles are followed, including section 5(5) of the Public Service Pensions Act 2013 which defines 'conflict of interest' for the purpose of a Local Pension Board, and Regulation 108 of the Local Government Pension Scheme Regulations 2013 which places duties on an Administering Authority to satisfy itself that Local Pension Board members do not have conflicts of interest on appointment or whilst they are members of the Board.
- 1.2 Given that the Board does not make decisions in relation to the administration and management of the Fund, it is not expected that significant conflicts will arise in the same way as would be the case if the Board were making decisions on a regular basis, akin to the role of the Pensions Investment Committee.
- 1.3 Nevertheless, the importance of following such requirements must be appreciated by Board members, and steps must be taken to identify, monitor and manage conflicts effectively. Failure to declare a conflict of interest can impact on good governance in various ways; for example, such failure may result in a Pension Board acting improperly, may lead to a perception that the Pension Board has acted improperly, or may result in a challenge to the work carried out by the Board.

2. Conflict of Interest – a Definition

- 2.1 As defined in section 5(5) of the Public Service Pensions Act 2013 and in the Board's Terms of Reference, a conflict of interest is a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Pension Board. It does not include a financial or other interest arising merely by virtue of that person being a member of the scheme.
- 2.2 A conflict of interest may arise, therefore, when a member of a Pension Board:
 - Must fulfil their statutory role of assisting Lewisham Council in securing compliance with the scheme regulations, other legislation relating to the governance and administration of the scheme, and any requirements imposed by the regulator or with any other matter for which they are responsible, whilst
 - Having a separate personal interest (financial or otherwise), the nature of which gives rise to a possible conflict with their statutory role.

3. Identifying, Monitoring, and Managing Conflicts

- 3.1 The Regulations place a duty on the Council as Administering Authority to satisfy itself that those appointed to the Board do not have an actual conflict of interest prior to appointment and 'from time to time' hereafter.
- 3.2 There is also a corresponding duty on those appointed to the Board to provide the Council with such information as it reasonably requires to satisfy itself that such persons have no conflict of interest.
- 3.3 Conflicts of interest can inhibit open discussions and result in decisions, actions or inactions which could lead to ineffective governance and administration of the scheme. It is therefore essential that any interests, which have the potential to become conflicts of interest or be perceived as conflicts of interest, are identified and that potential conflicts of interest (including perceived conflicts) are monitored and managed effectively.
- 3.4 Potential conflicts of interest will be monitored regularly, and will be considered in three stages: Stage 1: Identifying, Stage 2 Monitoring, and Stage 3 Managing.

3.5 *Stage 1: Identifying Potential Conflicts*

Pension Board members, and people who are proposed to be appointed to a Pension Board, must provide Lewisham Council with information that they reasonably require to be satisfied that Pension Board members and proposed members do not have a conflict of interest.

Pension Board members are required to disclose any interests, including other responsibilities, which could become conflicts of interest and which may adversely affect their suitability for the role, before they are appointed.

Once the Pension Board's work plan for the year ahead has been agreed, Lewisham Council will identify the important matters or decisions that are likely to be considered that may cause any potential or actual conflicts of interest. Pension Board members will be notified as soon as practically possible and mitigations will be put in place to prevent these conflicts from materialising.

3.6 *Stage 2: Monitoring Potential Conflicts*

As part of its risk assessment process, Lewisham Council will identify, evaluate and manage dual interests which have the potential to become conflicts of interest and pose a risk to the scheme and possibly members, if they are not mitigated. Lewisham Council will evaluate the nature of any dual interests and assess the likely consequences of a conflict of interest materialising.

Lewisham Council will maintain a register of interests as a means of recording and monitoring dual interests and responsibilities. The register of interests and other relevant documents will be circulated to the Pension Board for ongoing review and published on Lewisham's pension website.

Conflicts of interest will be included as an opening agenda item at Board meetings and revisited during the meeting, where necessary.

3.7 Stage 3: Managing Potential Conflicts

Lewisham Council will be open and transparent about the way potential conflicts of interest are managed. Options for managing and preventing a potential conflict of interest from becoming an actual conflict of interest include:

- A member withdrawing from the discussion and any decision-making process;
- the Board establishing a sub-board to review the issue (where the terms of reference give the power to do so); or
- a member resigning from the Board if the conflict is so fundamental that it cannot be managed in any other way.

Each incident will be assessed and managed on a case by case basis, and recorded in the register of conflicts of interest.

When seeking to prevent a potential conflict of interest becoming detrimental to the conduct or decisions of the Pension Board, Lewisham Council will consider obtaining professional legal advice when assessing any option.

4. Examples of Conflicts of Interest

4.1 The following paragraphs give examples of potential or actual conflicts of interest that could arise, or be perceived to arise, in relation to public service pension schemes. The examples are provided for illustrative purposes only and are not exhaustive.

4.2 Investing to improve scheme administration versus saving money

An employer representative, who may be a Permanent Secretary, or finance officer, 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, 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.

4.3 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.

4.4 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.

4.5 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.

Register of Conflicts of Interest: Lewisham Pension Board

Schemes should capture decisions about how any identified potential conflicts of interest will be managed in a Conflicts Register. The Register should be circulated to the Pension Board for ongoing review and published on the Lewisham Pensions website.

Date conflict identified	Name of PB member	Details of conflict	How notified of conflict	Action taken	Follow up required (Y/N)	Date resolved

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