

Conflicts of Interest Policy

1. Introduction

- 1.1. The Public Service Pensions Act 2013 (“the 2013 Act”) requires that any member of a pension board must not have a conflict of interest, which is defined as 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).”¹
- 1.2. The 2013 Act sets out the legal requirements for scheme managers and pension boards in relation to conflicts of interest.
 - 1.2.1. Scheme managers must be satisfied:
 - 1.2.1.1. That a person to be appointed as a member of the pension board does not have a conflict of interest²; and
 - 1.2.1.2. From time to time, that none of the members of the pension board has a conflict of interest³.
 - 1.2.2. Pension board members must provide the scheme manager with such information as they reasonably require for the purposes of meeting the legal requirements in relation to conflicts of interest⁴.
 - 1.2.3. The pension board must include employer representatives and member representatives in equal numbers⁵.
- 1.3. ‘The 7 principles of public life’ (attached at **Appendix A**) should be applied to all pension board members in the exercise of their functions.

2. What is a conflict or potential conflict?

- 2.1. Conflicts of interest may arise when pension board members must fulfil their legal duty to assist the scheme manager⁶ and at the same time, they have either:
 - 2.1.1. A separate personal interest (financial or otherwise);
 - 2.1.2. Another responsibility in relation to that decision, giving rise to a possible conflict with their first responsibility.
- 2.2. Legal duties include securing compliance with:
 - 2.2.1. Scheme regulations;
 - 2.2.2. Other legislation relating to the governance and administration of the scheme;
 - 2.2.3. Requirements imposed by the regulator; and

¹ Section 5(5) of the 2013 Act.

² Section 4(a)(i), *ibid.*

³ Section 4(a)(ii), *ibid.*

⁴ Section 5(4)(b), *ibid.*

⁵ Section 5(4)(c), *ibid.*

⁶ Section 5(2), *ibid.*

- 2.2.4. Any other matter for which they are responsible.
- 2.3. Actual conflicts of interest are those which actually materialise, and are likely to prejudice a pension board member's exercise of their functions. Where an actual conflict exists, there is a risk that the board member could be biased in favour of a particular decision which favours their interests, or they could place undue weight on the arguments opposing their interests in an attempt to address the conflict. This bias could be conscious or unconscious.
- 2.4. Actual conflicts of interest are prohibited by the 2013 Act, and cannot be managed. Only potential conflicts of interest can be managed.
- 2.5. Potential conflicts of interest may arise where a person has dual interests and responsibilities which may conflict with their role as pension board member but either:
- 2.5.1. The potential conflict has yet to materialise into an actual conflict; or
 - 2.5.2. The person declares it, and it is managed so that it does not materialise into an actual conflict.
- 2.6. Examples of potential conflicts of interest are listed at **Appendix B**.

3. Identifying and recording potential conflicts

- 3.1. All appointments to the Pension Board will be kept under review by the Scheme Manager.
- 3.2. All members of the Pension Board must declare to the Scheme Manager on appointment and at any such time as their circumstances change any potential conflict of interest arising as a result of their position on the Pension Board. This includes any potential conflicts of interest that:
- 3.2.1. Exist already;
 - 3.2.2. May arise in the future;
 - 3.2.3. Are perceived by others whether or not they are conflicts of interest.
- 3.3. If the pension board suspects any conflict of interest it should report its concerns to the Scheme Manager.
- 3.4. The pension board shall record all potential conflict of interests in a register of interests (attached at **Appendix C**).
- 3.5. Education on identifying and dealing with conflicts of interest will be included as part of the training requirement in the knowledge and understanding policy and framework⁷.

4. Monitoring potential conflicts

- 4.1. The register of interests will be circulated to the Pension Board and the Scheme Manager for ongoing review, and for publication on the Humberside Fire & Rescue Service website.
- 4.2. Conflicts of interest will be included as an opening agenda item at Pension Board meetings, and revisited during the meeting where necessary.

⁷ Article 10A.10 of the Humberside Fire Authority Constitution

4.3. Discussions about conflicts, details of conflicts reported, and actions taken regarding conflicts will be recorded in the Pension Board minutes.

5. Managing potential conflicts

5.1. The action taken will depend upon the nature and severity of the conflict. Any actual conflict cannot be managed, and must be reported to the Scheme Manager.

5.2. Possible courses of action in relation to potential conflicts include:

5.2.1. The conflicted Pension Board member taking no part in the discussion of the matter giving rise to the conflict;

5.2.2. The conflicted Pension Board member leaving the meeting for some or part of the time;

5.2.3. A sub-committee being established, excluding the conflicted Pension Board member, to consider the matter outside of the formal meeting (where the terms of reference permit this to happen);

5.2.4. The Scheme Manager seeking independent legal advice as to the way in which to manage the conflict;

5.2.5. The Scheme Manager seeking independent advice from other professionals, for example an accountant or actuary, on the matter in question.

5.3. Where the conflict of interest is considered to be so fundamental that it cannot be effectively managed, or where a Pension Board member has an actual conflict of interest as defined in the 2013 Act, the individual will be required to resign from their position on the Pension Board.

Appendix A

The 7 Principles of Public Life

1. Selflessness

Holders of public office should act solely in terms of the public interest.

2. Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

3. Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

4. Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

5. Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

6. Honesty

Holders of public office should be truthful.

7. Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B

Examples of potential Conflicts of Interest:

1. 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.

2. 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.

3. 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. Assisting the scheme manager versus furthering personal interests

4.1. 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

4.2. 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.

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.

