

LONDON BOROUGH OF SOUTHWARK
PENSIONS ADVISORY PANEL
DRAFT CONFLICTS OF INTEREST POLICY

DRAFT

April 2023

Effective date: April 2023

Reviewed: Every 3 years

Introduction

1. This conflict of interest policy (hereafter the 'policy') is established to ensure that Pensions Advisory Panel (PAP) members follow sound governance principles 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 the Pensions Advisory Panel acting improperly.
2. This policy sets out how Southwark Council (the "Council") will identify, manage and mitigate potential conflicts of interest that may arise in carrying out its role as the administering authority for the Southwark Council Pension Fund (the "Fund"). The Council recognises that its functions as an Administering Authority, managing the Fund, is quite different from its other functions and this policy has been developed with the specific requirements of Fund governance and is mindful that the PAP acts as quasi-trustees to the Pension Fund.
3. The Council recognises that its dual role as both an employer participating in the Fund and the body legally tasked with its management can produce the potential for conflicts of interest. Furthermore, those individuals involved in managing, overseeing or advising the Fund may, from time to time, find that they face competing incentives, financial or otherwise, as a result of their professional or personal circumstances.
4. It is important, therefore, that these potential conflicts are managed in order to ensure that no actual or perceived conflict of interest arises and that all the Fund's employers, scheme members and beneficiaries are treated fairly and equitably. 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.
5. The potential for conflicts of interest has always existed for those with Local Government Pension Scheme (LGPS) administering authority responsibilities and for advisers to LGPS funds. This reflects the fact that many of those managing or advising LGPS funds will have a variety of other roles and responsibilities, for example as a member of the LGPS, as an elected member or board member of an employer participating in the LGPS or indeed as an adviser to more than one administering authority. Furthermore, any of those persons may have a personal, business or other interest which might conflict, or be perceived to conflict, with their role in advising LGPS funds.
6. It is generally accepted that LGPS administering authorities have both fiduciary and public law duties to act in the best interest of both the LGPS beneficiaries and participating employers. This, however, does not preclude those involved in the management of an LGPS fund from having other roles or responsibilities which may result in an actual or potential conflict of interest. Accordingly, it is good practice to document within a Policy how any such conflicts or potential conflicts are to be managed.

7. Further, the Good Governance Review¹ recommended that each fund should have a fund-wide published conflicts of interest policy. This recommendation is being considered by the Department for Levelling Up, Housing and Communities (DLUHC). It is understood that there is now ministerial approval to bring the recommendations into law and suggested that April 2023 is the most likely date for any changes to come into force. It is therefore timely that Southwark has already adopted a bespoke conflict of interest policy for Local Pension Board members and is now proactively considering a having a policy in place for its Pensions Advisory Panel.

Purpose and objectives

8. This Policy is established to guide the PAP members and advisers. Along with other constitutional documents, including the Code of Conducts and the Member and Officer Protocols (see paragraph 15), it aims to ensure that those individuals 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.

To whom this Policy applies

9. The Policy applies to all members and officers and advisors (see paragraph 11) of the Pensions Advisory Panel whether voting members or not.
10. This Policy and the issue of conflicts of interest in general must be considered in light of each individual's role.
11. The Policy also applies to all advisers to the PAP. In this Policy, reference to advisers includes all advisers, suppliers and other parties providing advice and services to the PAP. This includes, but is not limited to actuaries, investment consultants, independent advisers, officers, benefits consultants, any selection panel member involved in the appointment of Fund managers, third party administrators, fund managers, lawyers, and officers of the London CIV, custodians and Additional Voluntary Contributions (AVC) providers. Where an advisory appointment is with a firm rather than an individual, reference to "advisers" is to the lead adviser(s) responsible for the delivery of advice and services to the PAP rather than the firm as a whole.
12. The Senior Finance Manager (Pensions and Treasury) will be responsible for ensuring that this policy is adhered to and that any processes for managing conflicts of interest are followed. In any situation where the Senior Finance Manager (Pensions and Treasury) may have a potential or actual conflict of interest, the responsibility for ensuring that this policy is adhered to and that any relevant processes are followed shall lie with the Monitoring Officer for the Council.

¹ Phase 3 report published February 2021

https://www.lgpsboard.org/images/Other/Good_Governance_Final_Report_February_2021.pdf and is being considered by DLUHC.

PAP members agree that they must:

- be open about any actual or potential conflicts of interest they may have;
- adopt practical solutions to managing those conflicts; and
- Plan ahead and agree with the Chair of the PAP how they will manage any potential conflicts of interest, which arise in future.

Legislative and related context

13. The overriding 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. These are detailed in Appendix 1.

Standards and Behaviours: Pension Advisory Panel (PAP) members

14. In addition to the requirements of this Policy, PAP members and the voting co-opted members are required to adhere to the Constitution of Southwark Council", Part 13 (Code of Conduct) and Part 14 (Member and Officer Protocol). This includes the requirement to register disclosable pecuniary interests. Council officers are required to adhere to the officer code of conduct. For the full text see the links below:

https://moderngov.southwark.gov.uk/documents/s109094/Code%20of%20conduct_May%202014.pdf

<https://moderngov.southwark.gov.uk/documents/s109095/Member%20and%20Officer%20Protocol%20February%202020.pdf>

<http://thesource/tools-and-resources/business-managers-handbook/people/code-of-conduct/>

Advisers

15. The Administering Authority appoints its own advisers. How conflicts of interest will be identified and managed should be addressed within the contractual arrangements.
16. There may be circumstances where advisers are asked to give advice to the Council as an employer, other employers, LGPS members or member representatives such as the trades unions in relation to pension matters. Similarly, an adviser may also be appointed to another administering authority which is involved in a transaction involving the Fund. An adviser can only continue to advise the Administering Authority and another party where there is no conflict of interest in doing so.

17. Where the Local Pension Board decides to appoint an adviser, this can be the same person as is appointed to advise the Pension Advisory Panel or Fund officers if there is no conflict of interest between the two roles.

Conduct at Meetings

18. There may be circumstances where a representative of employers or members wishes to provide a specific point of view on behalf of an employer (or group of employers) or member (or group of members). The Administering Authority requires that any individual wishing to speak from an employer's or member's viewpoint must state this clearly, at a PAP meeting and that this is recorded in the minutes.

What is a Conflict or Potential Conflict and how will it be managed?

19. The Public Service Pensions Act 2013 defines a conflict of interest as a financial or other interest which is likely to prejudice a person's exercise of functions.

Therefore, a conflict of interest may arise when an individual has a responsibility or duty in relation to the management of the 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.

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

21. The Council encourages a culture of openness and transparency, including in relation to its activities as Administering Authority. It encourages individuals to be vigilant and to have a clear understanding of their role, the circumstances in which they may have a conflict of interest and how potential conflicts should be managed. The Senior Finance Manager (Treasury and Pensions), with advice from the Monitoring Officer as required, will evaluate the nature of any dual interests or responsibilities that are highlighted and assess the impact on Fund operations and good governance were an actual conflict of interest to materialise.

22. Under the Member and Officer Protocol paragraph 28-30

'28. If the member is present at a meeting of the council assembly, or any committee, sub-committee, joint committee or joint sub-committee of the council, or any meeting of the cabinet or a committee of the cabinet, and they are aware they have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,

- *They may not participate in any discussion of the matter at the meeting*
- *They may not participate in any vote taken on the matter at the meeting*
- *If the interest is not registered, the member must disclose the interest to the meeting*

• *If the interest is not registered and is not the subject of a pending notification, the member must notify the monitoring officer of the interest within 28 days.*

29. Members who have a disclosable pecuniary interest in any matter to be considered or being considered at any meeting or by an individual cabinet member must not seek improperly to influence a decision about that business.

30. Where a cabinet member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the cabinet member must notify the monitoring officer of the interest within 28 days and must not take any steps or further steps in the matter.'

23. Provided that the Administering Authority, (having taken any professional advice deemed to be required) is satisfied that the method of management is satisfactory, the Council shall endeavour to avoid the need for an individual to have to resign due to a conflict of interest. However, where the conflict is considered to be so fundamental that it cannot be effectively managed, the individual will be required to resign from the Panel.

24. The areas where conflicts of interest may arise are detailed below and further examples are provided at appendix 2.

(i) Contribution setting for employers

The setting of employer contribution rates must be done in a way that is fair and transparent. No employer or individual should be in the position to unduly influence the contribution setting process.

The Fund achieves this in the following way:

The Funding Strategy Statement sets out the Fund's approach to all funding related matters including the setting of contribution rates. This policy is set with regard to the advice of the Fund Actuary and is opened to consultation with all Fund employers before being formally adopted by the Panel. The approach to contribution setting is based on specific employer characteristics such as its time horizons and risk profiles. This approach ensures consistency across all employers and removes the possibility of any employer receiving more, or less, favourable treatment.

(ii) Delivering the LGPS function for all employers

All employers within the Fund are entitled to receive the same high-quality service and support from the Fund. Equally, the expectation on employers in respect of their obligations under the LGPS are the same for all employers. There should no perception that the Council receives more favourable terms with regards to the service received from, or the obligations expected to, the Fund.

The Fund's administration strategy will set out the way in which the Fund works with its employers and the mutual service standards expected. The strategy details how the Fund will assist employers to ensure that they are best placed to meet their statutory LGPS obligations.

The pension fund is run for the benefit of its members and on behalf of all its employers. It is important therefore that the Fund's budget is set and managed separately from the expenditure of the Council. Decisions regarding pension fund resources are approved by the Panel on recommendation from the S151 officer.

iii) Investment decisions

The primary investment objective of the Fund is to ensure that over the long term there will be sufficient assets to meet all pension liabilities as they fall due. Investment decisions have an impact on all employers within the Fund and so should reflect the long-term requirements of the Fund.

The Investment Strategy Statement sets out how the Fund's money will be invested in order to meet future liabilities and contains the Fund's investment objectives and the asset classes in which it will invest. It also contains the Fund's approach to assessing environmental, social and governance risks and how it will act as a responsible asset owner with regard to engagement and voting shares for companies in which it is invested. The Statement also explains the Fund's approach to investments which deliver a social impact as well as a purely financial return.

All investment decisions are taken in accordance with the Investment Strategy Statement, following appropriate professional advice. No person with a conflict of interest relating to a particular investment decision may take part in that decision.

From time to time the Council may pursue certain climate related goals. Actions taken in pursuit of these goals may impact on members and employees of the Council in certain ways, for example members and staff may be required to pursue low carbon travel options when travelling on Council business. Where this is the case, members and employees carrying out work related to the management of the Fund will be subject to the same policies as all other Council members or staff, insofar as they reflect operational matters. However, decisions in respect of Fund investments are made by the PAP on behalf of all employers in the Fund and as such will follow separate and distinct policies and strategies.

Responsibility

25. The Council recognises that its dual role as both an employer participating in the Fund and the body legally tasked with its management can produce the potential for conflicts of interest to arise in certain areas. It is important that these potential conflicts are

managed in order to ensure that no actual or perceived conflict of interest arises and that all the Fund's employers and scheme members are treated fairly and equitably

- 26. Southwark Council, as the Administering Authority for the Fund must be satisfied that conflicts of interest are appropriately managed and maintain a register of interests. The register will be updated when an interest is declared by a member of the PAP.
- 27. The PAP should cultivate a culture of openness and transparency; it should identify, monitor and manage dual interests and responsibilities, which are or have the potential to become conflicts of interest.
- 28. The PAP should evaluate the nature of any dual interest and responsibilities and assess the impact on their operations and good governance if a conflict of interest were to materialise.
- 29. 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.

Operational procedure for Pensions Advisory Panel members

- 30. The PAP will operate a register of conflicts of interests for the recording of all declarations of interest. Further details of how potential conflicts of interest should be identified and managed are set out in the table below.

What is required	How this will be done
Step 1 - Initial identification of interests which do or could give rise to a conflict	<p>On appointment to their role or on the commencement of this Policy if later, all relevant individuals will be provided with a copy of this Policy and will be required to complete a Disclosure of Interests form.</p> <p>The information contained in disclosures will be collated into a register of interests. Each individual is responsible for maintaining their register on a continuous basis.</p>
Step 2 - Ongoing notification and management of potential or actual conflicts of interest	<p>Where possible, any conflicts should be advised in writing to the Senior Finance Manager (Treasury and Pensions) before the start of any PAP meeting. At the commencement of each PAP meeting, the Chair will ask all those present who are covered by this Policy to declare any new potential conflicts. Any disclosures will be recorded in the minutes of the meeting and in the register of interests. In addition, the latest version of the register will be made available by the Senior</p>

	<p>Finance Manager (Treasury and Pensions) to the Chair of every meeting prior to that meeting if required.</p> <p>The Chair, in consultation with the relevant officers will decide whether the conflicted or potentially conflicted individual needs to leave the meeting during the discussion on the relevant matter or to withdraw from voting on the matter.</p> <p>If such a conflict is identified outside of a meeting the notification must be made to the Senior Finance Manager (Treasury and Pensions) and, where it relates to the business of any meeting, also to the Chair of that meeting. Senior Finance Manager (Treasury and Pensions), in consultation with the Chair and with the advice of the Monitoring Officer where relevant, will consider any necessary action to manage the potential or actual conflict.</p> <p>Where information relating to any potential or actual conflict has been provided, the Senior Finance Manager (Treasury and Pensions) may seek such professional advice as he or she thinks fit on to how to address any identified conflicts.</p> <p>Any such potential or actual conflicts of interest and the action taken must be recorded on the register of interests and in the minutes of the meeting, if raised during a meeting.</p>
<p>Step 3 - Periodic review of potential and actual conflicts</p>	<p>At least once every 12 months, the Senior Finance Manager (Treasury and Pensions) will provide to all individuals to whom this Policy applies a copy of their currently declared PAP register of interests. All individuals will confirm in writing that their information is correct or highlight any changes that need to be made</p>

Operational procedure for advisers

31. All of the Fund's key advisers are expected to have their own policies on how conflicts of interest in their relationships with their clients are managed and these should be shared with the Administering Authority.
32. Although this Policy applies to advisers, the operational procedures outlined above relating to completing ongoing disclosures are not expected to apply to advisers. Instead all advisers must:
 - be provided with a copy of this Policy on appointment and whenever it is updated;
 - adhere to the principles of this Policy;

- provide, on request, information in relation to how they manage and monitor actual or potential conflicts of interests relating to the provision of advice or services to the Fund.; and
- notify the Senior Finance Manager (Treasury and Pensions) immediately should a potential or actual conflict of interest arise, including declaring such actual or potential conflicts at the beginning of PAP meetings

33. All potential or actual conflicts notified by advisers will be recorded in the register of interests.

Monitoring and Reporting

34. In order to identify whether the objectives of the Policy are being met the Senior Finance Manager (Treasury and Pensions) will review the register 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.

Key Risks

35. The key risks to the delivery of the Policy are outlined below.

- insufficient training or poor understanding in relation to individuals' roles on Fund matters;
- insufficient training or failure to communicate the requirements of the Policy;
- absence of the individual nominated to manage the operational aspects of the Policy and no one deputising, or failure of that individual to carry out the operational aspects in accordance with the Policy; and
- failure by a relevant Chair to take appropriate action when a conflict is highlighted at a meeting.

36. All of these could result in an actual conflict of interest arising and not being properly managed. The Senior Finance Manager (Treasury and Pensions) will monitor these and other key risks and consider how to respond to them.

Appendix 1

1. The statutory requirements for Local Pension Board members are made explicit in the Public Service Pensions Act 2013 and the Local Government Pension Scheme Regulations 2013. These are restated below.
2. To comply with the values set out in the Good Governance project², the same principles should be applied to those decision making committees such as the PAP. This will ensure that all those involved in the administration of the Pension Fund abide by the same principals in relation to any potential or actual conflicts of interest.

The Public Service Pensions Act 2013

3. Section 5 of the Act requires that the scheme manager (in the case of the LGPS this is the administering authority) must be satisfied that a pension board member does not have a conflict of interest at the point of appointment and from time to time thereafter. It also requires pension board members (or nominated members) to provide reasonable information to the scheme manager for this purpose.
4. The Act defines a conflict of interest 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 LGPS or any connected scheme).”
5. Further, the Act requires that LGPS managers must have regard to any such guidance that the national Scheme Advisory Board issue (see below).

The Local Government Pension Scheme Regulations 2013

6. Regulation 108 of these Regulations applies the requirements of the Public Service Pensions Act 2013 to the LGPS, placing a duty on each administering authority to satisfy itself that pension board members do not have conflicts of interest on appointment or whilst they are members of the board. It also requires those pension board members to provide reasonable information to the administering authority in this regard.
7. Regulation 109 states that each administering authority must have regard to guidance issued by the Secretary of State in relation to pension boards. Further, regulation 110 provides that the national Scheme Advisory Board has a function of providing advice to administering authorities and pension boards. The LGPS national Scheme Advisory Board issued guidance relating to the establishment of pension boards including a section on conflicts of interest. This Policy has been developed having regard to that guidance.

² https://lgpsboard.org/images/Other/Good_Governance_Final_Report_February_2021.pdf ‘The Guidance should refer all those involved in the management of the LGPS, and in particular those on decision making committees, to the guide on statutory and fiduciary duty which will be produced by the SAB’

The Pensions Act 2004

8. The Public Service Pensions Act 2013 also added several provisions to the Pensions Act 2004 related to the governance of public service pension schemes and, in particular, conflicts of interest.
9. 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 Policy has been developed having regard to that Code.
10. Further, under section 13, The Pensions Regulator can issue an improvement notice (i.e. a notice requiring steps to be taken to rectify a situation) where it is considered that the requirements relating to conflicts of interest for pension board members are not being adhered to.

Localism Act 2011

11. All members and co-opted members of the Pension Committee are required by the Localism Act 2011 to register and declare 'disclosable pecuniary interests' and 'other registerable interests' and abide by Southwark Council's Code of Conduct. That Code contains provisions relating to disclosable pecuniary interests, other registerable interests, non-registerable interests and sensitive interests including their disclosure and any limitations on members' participation where they have any such interest.

CIPFA Investment Pooling Governance Principles for LGPS Administering Authorities Guidance

12. This Guidance states:

"the establishment of investment pooling arrangements creates a range of additional roles that committee members, representatives, officers and advisors might have."

It includes some examples of how conflicts of interest could arise in these new roles and highlights the need for administering authorities to:

- update their conflicts policies to have regard to asset pooling;
- remind all those involved with the management of the fund of the policy requirements and the potential for conflicts to arise in respect of asset pooling responsibilities;
- ensure declarations are updated appropriately.

13. This Policy has been updated to take account of the possibility of conflicts arising in relation to asset pooling in accordance with the CIPFA governance principles guidance.

Principles of Public Life

14. The Seven Principles of Public Life, otherwise known as the “Nolan Principles,” apply to anyone who works as a public office holder. They cover everyone elected or appointed to an office within local government and many are integral to the successful implementation of this Policy. They are as follows:

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

Advisers’ Professional Standards

15. Many advisers are required to meet professional standards relating to the management of conflicts of interest, for example, the Fund Actuary is bound by the requirements of the Institute and Faculty of Actuaries. Any protocol or other arrangement between an adviser and the Administering Authority in relation to conflicts of interest, whether as a requirement of a professional body or otherwise, should be read in conjunction with this Policy.

Appendix 2

Further Examples of Potential Conflicts of Interest

- a) An elected member on the PAP may be required to provide views on a funding strategy which could result in an increase or decrease in employer contributions payable by the employer he or she represents.
- b) An elected member on the PAP may be a member of a political party or a special interest group that has specific areas of interest that might influence Fund decision making.
- c) In considering actuarial advice and reports PAP members have an overriding responsibility to protect the long-term solvency of the Fund which could conflict with short-term budgeting priorities of individual employers.
- d) A member of the PAP is on the board of, or employed by, an Investment Manager or other supplier that the PAP is considering appointing.
- e) The person appointed to consider internal disputes is asked to review a case relating to a close friend or relative.
- f) The administering authority is considering buying its own payroll system for paying pensioners, rather than using the payroll system used for all employees of the Council. The Strategic Director of Finance, who has responsibility for the Council budget, is expected to approve the report to go to the PAP which, if agreed, would result in a material reduction in the charges to the Council from the Fund.
- g) An employer representative may be aware of a system which would help to improve standards of service and/or record keeping but would be expensive to implement and lead to increased contribution rates. A conflict could arise through the representative's dual interests.
- h) Officers of the Fund are asked to provide a report to the PAP on whether the administration services should be outsourced which, if it were to happen, could result in a change of employer or job insecurity for themselves.
- i) A Fund adviser is party to the development of a strategy which could result in additional work for his or her firm, for example, providing delegated or fiduciary management of Fund investments, providing assistance with monitoring the covenant of employers.
- j) An employer representative has access to information by virtue of his or her employment, which could influence or inform the considerations or decisions of the PAP. He or she has to consider whether to share this information 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 PAP.

k) An officer of the Fund or member of the PAP accepts hospitality from an Investment Manager or other supplier who has submitted a bid as part of a tender process.

l). A proportion of the Fund's assets may be invested through the London CIV. Any members of the PAP or senior officers of the Fund who are members of the Board of the London CIV or its Shareholder Committee must also comply with any requirements relating to the management of actual or potential conflicts of interest for the governance of the London CIV. The Council is one of 32 equal shareholders in the London LGPS CIV Ltd ("LCIV"). The shareholders, as LGPS administering authorities, also purchase investment management services from LCIV. The nature of this relationship has the potential to lead to conflicts of interest that must be managed.

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