

WILTSHIRE COUNCIL

WILTSHIRE LOCAL PENSION BOARD

16 July 2015

Code of Conduct and Conflict of Interest Policy

Purpose of the Report

1. The purpose of this report is to consider how the Local Pension Board (LPB) will manage conflict of interests and outline the expected code of conduct for Members.

Background

2. To ensure sound governance of the LPB, there are certain principles that LPB Members must follow, particularly in relation to code of conduct and conflicts of interest.
3. These regulations place a duty on Wiltshire Council to satisfy itself that LPB Members don't have conflicts of interest on appointment or whilst they are Members of the LPB. LPB Members may be made aware of their duties under a code of conduct.

Code of Conduct and Disclosure of Interest for Wiltshire Councillors

4. There is a requirement for Wiltshire Councillors to comply with their own code of conduct and to disclose any interests. This code of conduct is attached in Appendix 1

Seven Principles of Public Life

5. For those LPB Members who aren't Wiltshire Councillors, then as a holder of public office the expectation is that they comply with the 'Seven Principles of Public Life', also known as the 'Nolan Principles' which are:
 - a) **Selflessness** - Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
 - b) **Integrity** - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
 - c) **Objectivity** - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
 - d) **Accountability** - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
 - e) **Openness** - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

- f) **Honesty** - Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- g) **Leadership** - Holders of public office should promote and support these principles by leadership and example.

Register of Interest

- 6. All LPB Members are required to notify Democratic Services of any potential conflict of interest arising as a result of their position on the Board.
- 7. All meetings of the LPB include a standing item titled Declarations of Interest at the start of the meeting where any declaration of interest in relation to items on the agenda should be made. If in doubt, further advice can be sought from Democratic Services.

The Pensions Regulator's Code of Practice on Conflicts of Interest

- 8. The Pensions Regulator (tPR) also outlines its expectations on conflict of interest management in its **Code of Practice: Governance and administration of public service pension schemes** in paragraphs 61 to 89 (see extract in Appendix 2).
- 9. The Code states conflicts of interest are prohibited within the Public Service Pension Act (PSPA) 2013, but "potential" conflicts can be managed. The Code outlines when a conflict may arise, providing practical examples. The Code expects the LPB to have an agreed and documented conflicts policy and procedure which outlines how they will be identified and managed using a three stage process of identifying potential conflicts, monitoring them and managing them.
- 10. Failure to follow applicable codes of conduct or declare a conflict of interest can impact on good governance in various ways. For example, such failure may result in a LPB actually acting improperly, leading to a perception that the LPB has acted improperly, or may result in a challenge to the work carried out by the LPB.

What is a Conflict of Interest?

- 11. For the purposes of a member of a LPB, a 'conflict of interest' is defined in section 5(5) of the PSPA 2013 as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of a LPB.
- 12. The PSPA 2013 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). Therefore, a conflict of interest may arise when a member of a LPB must fulfil their legal duty to assist the Wiltshire Pension Fund and at the same time they have 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 as a LPB member.

Examples of a Conflict of Interest

- 13. Some examples of potential conflicts in this context would include:
 - a) A finance officer appointed as a member of a LPB 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 LPB 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.

- b) 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 LPB.
- c) 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 LPB is reviewing the standards of service provided by it.

Considerations for the LPB

Code of Conduct for the Local Pension Board

- 14. As currently only one person on the LPB will be a Wiltshire Councillor, it is appropriate that the LPB approve a code of conduct to be adopted. It would be recommended that this is developed in line with the current code in place for Wiltshire Councillors.
- 15. It is important that all LPB Members are familiar with and understand the importance of these principles to be adopted by the LPB and appropriate training is arranged on this issue.

Conflicts of Interest Policy

- 16. The Terms of Reference elsewhere on this agenda outline the LPB approach to conflicts of interest in paragraph 54 to 56 which states:
 - a) *All members of the Board must declare to the Administering Authority 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 Board.*
 - b) *A conflict of interest is defined as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Board. It does not include a financial or other interest arising merely by virtue of that person being a member of the Scheme.*
 - c) *On each appointment to the Board and following any subsequent declaration of potential conflict, the Administering Authority shall ensure that any potential conflict is effectively managed in line with the internal procedures of the Administering Authority, the requirements of the Act, the requirements of the Code and the requirements of Relevant Legislation on conflict of interest for Board members.*
- 17. Therefore a conflicts of interest policy needs to be developed, that clearly outlines the process and procedure for identifying, monitoring and managing these conflicts for approval which covers both elected and non-elected LPB Members.
- 18. Further training should be provided for officers and Members of the LPB on conduct and conflicts.

19. LPB Members should also ensure they notified Democratic Services of any potential conflict of interest arising as a result of their position on the Board and be aware of their responsibilities to declare any further interest at the start of each meeting.

Environmental Impact of the Proposal

20. Not applicable.

Financial Considerations & Risk Assessment

21. There are no significant financial implications from this report.

22. The implementation of a Code of Conduct and Conflicts of Interest Policy will assist in mitigating the reputational risk should an issue arise which hasn't been identified or managed.

Legal Implications

23. There are no material legal implications from this report. Legal Services have been consulted regarding the legislation referred to in this report.

Safeguarding Considerations/Public Health Implications/Equalities Impact

24. There are no known implications at this time.

Reasons for Proposals

25. To ensure the LPB has a policy to address Code of Conduct and Conflict of Interests and that LPB Members are aware of the issues surrounding the legislation.

Proposals

26. The LPB is asked to:

- a) request Wiltshire Council develop a Code of Conduct and Conflicts of Interest Policy for approval;
- b) request officers provide further training to LPB Members on Code of Conduct and Conflicts of Interest; and
- c) note the requirement for Members to declare any potential conflict of interest arising from their position on the LPB.

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Unpublished documents relied upon in the production of this report: NONE