

Conflict of Interest Policy – Members of the London Borough of Brent Pension Fund Local Pension Board

Status of this policy

The Public Service Pensions Act 2013 (the 2013 Act) makes it a legal requirement that members of local pension boards do not have a conflict of interest. The Local Government Pension Scheme Regulations 2013 (the 2013 Regulations) have been amended accordingly. This policy sets out the principles which members of the London Borough of Brent Pension Fund Local Pension Board are expected to follow in order to fulfil their legal obligations under the 2013 Act in identifying, monitoring and managing potential, actual or perceived conflicts of interest.

Defining Conflicts of Interest

A conflict of interest may arise when a member of a Local Pension Board:

- must fulfil their legal duty to assist the Administering Authority; 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 as a Local Pension Board member.

The key issue for a member of the Local 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 Local Pension Board. 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 Local Pension Board, but these do not prevent the person from fulfilling their responsibilities as a Board member. This situation may occur when the separate interest is sufficiently immaterial and so does not conflict with the Board member's first obligation to the Local Pension Board.

Policy Objectives

1. To ensure that all members of the London Borough of Brent Pension Fund Local Pension Board comply with their statutory requirements under The Public Service Pensions Act 2013 and associated regulations and guidance.
2. Ensure that all Local Pension Board members are aware of their duty to act independently and carry out their roles to a high ethical standard.
3. Remove any perception that the actions of Local Pension Board members are influenced by the presence of a separate responsibility or interest that conflict with their responsibilities as a Board member.
4. 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.
5. Ensure that public confidence in the governance of the London Borough of Brent Pension Fund is maintained.

Legislative Background

This policy sets out how members of the London Borough of Brent Pension Fund Local Pension Board are expected to manage potential, perceived or actual conflicts of interest arising in relation to their work as a member of that Pension Board.

Regulation 108 of the 2013 Regulations requires that;

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

Section 5(5) of the 2013 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 scheme or any connected scheme).

The 2013 Regulations allow for elected members to sit on a Local Pension Board. Under the Localism Act of 2011 all elected members will be covered by and subject to their own local authority's code of conduct. Nothing in this policy in any way supersedes or replaces any requirements under an elected member's own authority's code of conduct.

The Regulator's Code of Practice on Conflicts of Interest

The Pensions Regulator has responsibility for regulatory oversight of the governance and administration of public service pension schemes, including the Local Government Pension Scheme and therefore by implication includes regulatory oversight of the Local Pension Board's activities. The Pensions Regulator has published guidance in the form of a Code of Practice part of which is designed to assist Scheme Managers to meet their legal duty in ensuring that Local Pension Board members do not have conflicts of interest.

Perception of Conflicts of Interest

Members of the Local Pension Board should be aware that even if no actual conflict of interest exists it is important to guard against the perception among, for example, Scheme members, the Pensions Regulator, elected members or members of the public that a real conflict of interest exists.

If there is the possibility that a perceived conflict of interest may exist, it should be managed by the Local Pension Board in the same way as a real conflict of interest.

Confidential Information

A member of the Local Pension Board may, by virtue of their employment by an employing authority within the London Borough of Brent Pension Fund, have access to confidential information about their employer.

A member of the Board is not obliged to reveal this information as part of their role on the Local Pension Board.

However, if an affected member considers that the information to which they are party may:

- a) adversely affect the London Borough of Brent Pension Fund or an employer within the Fund,
- b) reasonably cause the Local Pension Board to interpret a decision by the Pension Committee differently or act in a different way were it to be known at the time and

- c) the information will not be made available to the Local Pension board through some other means within such time as the Board is able to fully act upon it,

that Local Pension Board member shall withdraw from all discussion in relation to that issue and notify the Board that a conflict of interest exists. The details of the conflict need not be disclosed.

This scenario may occur where a Board member is aware of legally confidential negotiations around, for example, the takeover of a London Borough of Brent Pension Fund employer which may radically alter that business and have a corresponding effect on its participation in the fund or the size of its liabilities.

Identifying and monitoring Conflicts of Interest

The Role of Individual Members of the Local Pension Board

There is a duty on all prospective Local Pension Board members to declare interests prior to their appointment to the Board.

Members of the Local Pension Board must provide any information requested by the Administering Authority in connection with the Authority's duty to ensure that conflicts of interest do not exist.

Local Pension Board members must be conscious of the need to be open about potential and actual conflicts. Board members should be aware of their statutory obligations in this area as well as being familiar with the Pension Regulator's code of practice and this policy document.

Where a member has declared an interest which has been recorded on the Register of Member Interests it will not typically be necessary to declare that interest at subsequent Local Pension Board meetings unless the materiality of that interest changes in respect of the Board's business.

In cases of exceptional sensitivity a member of the Local Pension Board may make a notification of an interest to the Chair of the Board, rather than to the full Board.

The Role of the Administering Authority

London Borough of Brent Council as the Administering Authority for the London Borough of Brent Pension Fund must be satisfied that any individual appointed to the Local Pension Board does not have a conflict of interest and must also ensure that from time to time no such conflict arises.

London Borough of Brent Council shall consider all applications from potential Local Pension Board members prior to approval in order to ensure that no conflict exists. The potential for a conflict to arise at some point in future will not in itself be reason to exclude an individual from membership of the Local Pension Board, unless the Administering Authority considers that the likelihood of a conflict arising is so high or the conflict itself is likely to arise persistently and frequently enough that it is likely to compromise an individual's ability to participate meaningfully on the Board.

The Role of the Local Pension Board

The Local Pension Board should identify, monitor and manage dual interests and responsibilities which are or have the potential to become actual or perceived conflicts of interest. In determining how to manage conflicts of interest the Local Pension Board must comply with the 2013 Act, The 2013 Regulations, guidance from the Pensions Regulator and this policy document.

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

There will be a standing agenda item at all meetings of the Local Pension Board at which members will be asked to declare any interests. The Local Pension Board will ensure that a register of member interests will be kept up to date and be included as part of the papers for each meeting of the Local Pension Board.

Managing Conflicts of Interest

In the event that the Local Pension Board is of the view that a potential conflict of interest may become an actual or perceived conflict in respect of one or more of its members the Board must determine the appropriate mechanism for managing that conflict. The approach taken will depend on the nature and extent of the potential conflict. Some possible methods for the management of potential conflicts are given below.

- Requiring 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 their Local Pension Board responsibilities.
- If the conflict is likely to be persistent and ongoing in such a way that it is likely to limit a member's meaningful participation in the Local Pension Board, that member should consider resigning from their position.
- The Scheme Manager may remove any individual from the Local Pension Board where they consider there is an actual conflict of interest or a potential conflict which it is impractical to manage.

Adviser and Officer Conflicts

The Local Pension Board will be supported and advised by officers of the Fund in its day to day business. Similarly the Board may, if appropriate, seek independent or professional advice for example, legal advice or governance advice.

The Local Pension Board must be confident that the advice it receives from officers and advisers is independent and truly in the best interests of the London Borough of Brent Pension Fund. For this reason officers and advisers giving advice to the Local Pension Board must also declare any situation where a potential, perceived or actual conflict exists, in order that it can be appropriately managed.

Appendix

Relevant References

2011 Act	The Localism Act 2011.
2013 Act	The Public Service Pensions Act 2013.
2013 Regulations	The Local Government Pension Scheme Regulations 2013 (as amended).
Scheme Manager	The administering authority for the London Borough of Brent Pension Fund, London Borough of Brent Council

Examples of conflicts of interest

The following are intended to be examples of potential conflicts for illustrative purposes. The list is not exhaustive and is not intended to provide all the scenarios in which a conflict of interest may arise.

Example 1

There may be situations where a member of the Local Pension Board who is also an officer for the London Borough of Brent Council or some other employer in the London Borough of Brent Pension Fund faces conflicting priorities by virtue of their two roles. For example, as a Local Pension Board member they may make or scrutinise a decision which requires the use of greater employer resource in order to improve the administration and efficiency of the London Borough of Brent Pension Fund. However, at the same time they may be facing departmental pressure to cut budgets and spend less on pension administration matters.

Example 2

The Local Pension Board is reviewing a decision by the Pension Committee to levy an additional charge under the 2013 Regulations to a group of employers whose poor performance in carrying out their statutory functions in respect of the LGPS has caused the London Borough of Brent Pension Fund additional costs. Any employer representative on the Board, who is employed by an employer who falls into this category, would need to declare their interest and the resulting conflict of interest would need to be managed.

Example 3

It is possible that a scheme member representative is also employed by a firm to whom the Fund's administration has been outsourced. Such a member is likely to face a conflict of interest when the performance of that company in respect of their administration performance is discussed.

Example of where a declared interest may not constitute a conflict of interest

A representative on the Local Pension Board holds shares in a company that provides outsourced pension administration services as part of a varied portfolio. The shares are valued at a few hundred pounds and the company's value is many tens of millions. The Pension board is reviewing the decision to outsource the Fund's administration staff to that company.

In this case the Local Pension Board may consider that on grounds of materiality, no conflict of interest exists. The Local Pension Board is not responsible for the decision and the impact of the outsourcing will have no effect on the company's share price. The Local Pension Board member in question should, however, still declare their interest.