

EAST RIDING OF YORKSHIRE COUNCIL CODE OF CONDUCT AND CONFLICTS OF INTEREST POLICY FOR LOCAL PENSION BOARD MEMBERS

1. Introduction

The principles included in the East Riding of Yorkshire Council's Code of Conduct for Members will apply to all Members of the Local Pension Board (the Board) of the East Riding Pension Fund. The Code is set out in SECTION 10: MEMBERS - CODES OF CONDUCT, BRIEFINGS AND ALLOWANCES ANNEX A (pages 123 – 126) of the Council's Constitution at <http://www2.eastriding.gov.uk/council/committees/the-council/council-constitution-political-control-and-councillor-information/>

2. Legal Background

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 and that they declare this position. The Local Government Pension Scheme Regulations 2013 (the 2013 Regulations) have been amended accordingly. This policy sets out the principles which members of the East Riding 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.

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 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 Board member; or
- an interest could also arise due to a family member or close colleague having a specific responsibility or interest in a matter.

The key issue for a Board member is to consider whether they are subject to a conflict of interest which prevents them from acting entirely independently in their capacity as a Board member. It is recognised that, from time to time, a person may have interests or responsibilities which are not aligned with their responsibilities as a Board member, 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 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)

Declarations are required as part of the appointment process, as well as at regular intervals throughout a member's tenure to the scheme manager's satisfaction, normally on an annual basis but, depending on the circumstances, at the scheme manager's discretion.

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.

3. Code of Conduct

It is important to note that the issue of conflicts of interest must be considered in light of the Board's role, which is to assist the Administering Authority. The Board does not make decisions in relation to the administration and management of the Fund; this rests with the Administering Authority. As a result, it is not anticipated that significant conflicts will arise in the same way as would be the case if the Board was making decisions on a regular basis (compared, for example, to the Pensions Committee). Nevertheless, steps need to be taken to identify, monitor and manage conflicts effectively. Board members must:

- declare any actual or potential conflicts of interest they may have;
- be open with each other on any conflicts of interest they may have;
- provide information reasonably requested to assess whether there is an actual or potential conflicts of interest;
- adopt practical solutions; and
- plan ahead and agree on how they will manage any conflicts of interest which arise.

As members of a publicly funded body with a responsibility to discharge public business, a Board member should have regard to the seven principles of public life – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

In addition, to comply with the Member Code of Conduct, Board members will declare any conflicts of interest on their appointment letter and declare any further potential conflicts of interest that may arise once appointed as a member.

4. Procedures

The following procedures have been adopted:

- Board members and advisors to the Board will be required to complete and sign a letter of appointment to the Board to confirm they have no conflicts of interest at the time of appointment to the Board;
- a register of Board members' and advisors' interests which could give rise to a conflict will be maintained by East Riding of Yorkshire Council (see Appendix A);
- each Board member and advisor will sign an annual return confirming that their information contained in the Register of Interest is correct. The updated register will then be circulated to all Board members and the scheme manager. These two events will be added to the agenda at the appropriate annual meeting;
- the scheme manager's representative advising the Board will identify any potential or actual conflicts of interest and advise the Chair. The Chair in conjunction with the scheme manager will decide on the action required and advise the Board members of any actions taken;

- any Board member who feels that they, another Board member or advisor has a conflict of interest must seek early advice from the scheme manager;
- any Board member or advisor must withdraw from a Board meeting if they have a conflict of interest. The conflict of interest and the action taken must be recorded in the minutes;
- if a conflict is identified outside a Board meeting the Chair shall consult with the other Board members prior to making a decision. The conflict of interest and the action taken must be recorded;
- where there is likely to be a conflict of interest in giving advice, the Board should consider carefully whether it is appropriate to appoint the adviser in the first place. It may also be necessary to consider carefully whether they should take steps to remove an adviser who has already been appointed.

5. Confidential Information

A Board member may, by virtue of their employment by an employing authority within the East Riding Pension Fund, have access to confidential information about their employer. A Board member is not obliged to reveal this information as part of their role on the Board. However, if an affected member considers that the information to which they are party may:

- adversely affect the East Riding Pension Fund or an employer within the Fund;
- reasonably cause the Board to interpret a decision by the Pensions Committee differently or act in a different way were it to be known at the time; and
- the information will not be made available to the Board through some other means within such time as the Board is able to fully act upon it;

that 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.

For example, this scenario may occur where a Board member is aware of legally confidential negotiations around, for example, the takeover of an East Riding 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.

6. 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. Whilst Board members may be subject to other legal requirements when exercising functions as a member of the Pension Board, the Regulator expects the requirements which specifically apply by virtue of the 2013 Act to be met and the standards of conduct and practice set out in its [Code of Practice](#) to be complied with.

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 Board members do not have conflicts of interest. The Code of Practice offers guidance about managing potential conflicts and the identification, monitoring and management of actual conflicts. This policy is intended to reflect the principles of the Regulator's Code of Practice and apply them in a Local Government Pension Scheme context.

7. Conflicts of Interest – General Principles

The basic principle in relation to conflicts of interest is that a Board member must not put him or herself in a position where duty and personal interest conflict or where their duty to one conflicts with their duty to another unless expressly authorised.

Conflicts of interest may arise for Members and their advisors. This simply reflects the fact that individual Members and their advisors will have a variety of other roles and responsibilities outside the Board. Members and their advisors must be able to identify potential conflicts of interest and have procedures in place to manage them.

Examples of Conflicts of Interest can be found in Appendix B.

8. Perception of Conflicts of Interest

Board members 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 Board in the same way as a real conflict of interest.

9. Adviser and Officer Conflicts

The 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 legal or governance advice.

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

10. Identifying Conflicts of Interest

The Pensions Regulator recommends that pension schemes should consider potential conflicts of interest in three stages:

- identifying
- monitoring; and
- managing

11. The Role of Individual Members of the Local Pension Board

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

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

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

On appointment, each Board member will be required to complete and return an appointment letter which sets out the requirements of the role of Board members including the disclosure of all interests and responsibilities which have the potential to become conflicts of interest. The appointment letter allows a Board member to declare any conflicts of interest. A Register of Interest document will be maintained by the Council's Monitoring Officer.

12. The Role of the Administering Authority

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

The East Riding of Yorkshire Council shall consider all applications from potential 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 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 Council's Monitoring Officer will be available to advise and guide Board members on matters concerning potential conflicts of interest, should they arise

13. 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 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 conflicts 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 Board at which members will be asked to declare any interests. The Board will ensure that a Register of Interest is kept up to date and be included as part of the papers for each meeting of the Local Pension Board.

14. Monitoring Conflicts of Interest

In order for the Administering Authority to fulfil its obligation to ensure that Board members do not have a conflict of interest, the Board must include an item on conflicts of interest at each meeting of the Board and in its annual report to the Administering Authority.

The Board is required to maintain a written register of dual interests and responsibilities which have the potential to become conflicts of interest, and which may adversely affect members' or advisers' suitability for the role. Each Board member (as well as any other attendees participating in the meeting) will be expected to declare, on appointment and at each meeting, any interests which may lead to conflicts of interest. Such a conflict could be in relation to a general subject area or to a specific agenda item of a Board meeting.

The Chair of the Board must be satisfied that the Board is acting within:

- the conflicts of interest requirements of the 2013 Act and the 2013 Regulations, and
- the spirit of any national guidance or code of practice in relation to conflicts of interest for Pension Board members.

Board members, or a person proposed to be appointed to the Board, (as well as attendees participating in the meeting) must provide the Chair of the Board with such information as he or she reasonably requires for the purposes of demonstrating that there is no conflict of interest.

Board members are required to have a clear understanding of their role and the circumstances in which they may find themselves in a position of conflict of interest, and should know how potential conflicts should be managed.

The Board is required to evaluate the nature of any dual interests and responsibilities, assess the impact on operations and governance were a conflict of interest to materialise, and seek to prevent a potential conflict of interest becoming detrimental to the conduct or decisions of the Board. The Board may consider seeking independent legal advice from a nominated officer (for example, the Monitoring Officer) or external advisers where necessary on how to deal with these issues, if appropriate.

Individual Board members must know how to identify when they have a conflict of interest which needs to be declared and which may also restrict their ability to participate in meetings or decision making. They also need to appreciate that they have a legal duty under the regulations to provide information to the Administering Authority in respect of conflicts of interest.

All potential or actual conflicts notified by advisers will be recorded in the Fund's Register of Interest. The register may be viewed by any interested party at any point in time. It will be made available on request by the Pension Fund manager. In addition, it will be published in the annual report and accounts.

In order to identify whether the objectives of this policy are being met the Administering Authority will:

- review the Register of Interest 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;
- provide its findings to the Administering Authority's Independent Adviser and ask him or her to include comment on the management of conflicts of interest in his or her annual report on the governance of the Fund each year.

15. Managing Conflicts of Interest

In the event that the Board is of the view that a potential conflicts 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 Board member for whom the conflict exists takes no part in discussions, decision making or providing advice or does not vote in respect of the matter for which they are conflicted;

- the individual Board member being excluded from the meeting(s) and any related correspondence or material in connection with the relevant issue (for example, a report for a Pensions Committee meeting);
- if practical the Board member may relinquish or divest themselves of a personal interest which is the source of a conflict of interest with their Board responsibilities;
- if the conflict is likely to be persistent and ongoing in such a way that it is likely to limit a Board member's meaningful participation in the Board, that Board member should consider resigning from their position;
- the scheme manager may remove any Board member from the Board where they consider there is an actual conflict of interest or a potential conflict which it is impractical to manage;
- a working group or sub-committee being established, excluding the Board member concerned, to consider the matter outside of the formal meeting (where the terms of reference permit this to happen).

16. Conclusion - The Policy Objectives are

To ensure that all members of the East Riding Pension Fund Local Pension Board comply with their statutory requirements under the 2013 Act and associated regulations and guidance.

Ensure that all Board members are aware of their duty to act independently and carry out their roles to a high ethical standard.

Remove any perception that the actions of Board members are influenced by the presence of a separate responsibility or interest that conflict with their responsibilities as a Board member.

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. Records will be lodged in advance of the Board member's appointment and will be maintained by the Council's Monitoring Officer.

Ensure that public confidence in the governance of the East Riding Pension Fund is maintained.

APPENDIX A

East Riding of Yorkshire Council

Register of Potential and Actual Conflicts of Interest

All reported conflicts of interest will be recorded in the minutes and a register of conflicts will be maintained and reviewed annually by the East Riding of Yorkshire Council, the Administering Authority.

Date identified	Name of person	Role of person	Details of conflict	Actual or potential conflict	How notified(1)	Action taken(2)	Follow up required	Date resolved

(1) eg. verbal declaration at meeting, written conflicts declaration, etc

(2) eg. withdrawing from a decision making process, left meeting

APPENDIX B

<p>Examples of Pension Related Potential Conflicts of Interest</p>	<p>Also a Personal or Prejudicial Interest</p>
<p>An elected member on the Pensions Committee may be required to provide views on a funding strategy which could result in an increase in employer contributions payable by the employer he or she represents.</p>	<p>No</p>
<p>A member of the Pensions Committee is on the Board of an Investment Manager that the Committee is considering appointing.</p>	<p>Yes</p>
<p>An employer representative on the Local Pension Board is employed by a company to which the Administering Authority has outsourced its pension administration services and the Local Pension Board is reviewing the standards of service provided by that company.</p>	<p>No</p>
<p>The person appointed to consider internal disputes is asked to review a case relating to a close friend or relative.</p>	<p>Yes</p>
<p>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 Finance director, who has responsibility for the Council budget, is expected to approve the report to go to the Pensions Committee which, if agreed would result in a material reduction in the recharges to the Council from the Fund.</p>	<p>No</p>
<p>Officers of the Fund are asked to provide a report to the Local Pension Board or Pensions Committee 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 the officers.</p>	<p>No</p>
<p>An employer representative employed by the Administering Authority and appointed to the Local Pension Board to represent employers generally could be conflicted if he or she only serves 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 Local Pension Board to represent the entire scheme membership could be conflicted if he or she only acts in the interests of their union and union membership, rather than all scheme members.</p>	<p>No</p>
<p>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 or providing assistance with monitoring the covenant of employers.</p>	<p>No</p>
<p>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 Pensions Committee or Local Pension Board. 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 Pensions Committee or Local Pension</p>	<p>No</p>

Board.	
An officer of the Fund or member of the Pensions Committee accepts a dinner invitation from a Fund Manager who has submitted a bid as part of a tender process	No
An officer of the Fund is asked to provide guidance to the Local Pension Board on the background to an item considered at the Pensions Committee. This could be a potential conflict as the officer could consciously or subconsciously avoid providing full details, resulting in the Local Pension Board not having full information and not being able to provide a complete view on the appropriateness or otherwise of that Pensions Committee item.	No
An officer may be required as a member of the Local Pension Board 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.	No
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 Local Pension Board.	No
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 Local Pension Board are reviewing the standards of service provided by it.	No
A Local Pension Board member may make or scrutinise a decision which requires the use of greater employer resource in order to improve the administration and efficiency of the East Riding Pension Fund. However, at the same time they may be facing departmental pressure to cut budgets and spend less on pension administration matters.	Yes
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 Local 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.	No