



North East Scotland Pension Fund  
**nespf**

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## **Conflicts of Interest Policy - Pension Board**

**SEPTEMBER 2023**

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## Purpose Statement

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This Conflicts of Interest policy has been prepared for North East Scotland Pension Fund, as administered by Aberdeen City Council, as a guide for members of the Pension Board.

The Policy sets out the principles which members of the NESPF Pension Board are expected to follow in order to fulfil their legal obligations under the Public Service Pensions Act 2013 in identifying, monitoring and managing potential, actual or perceived conflicts of interest. It can also serve as a guide for Officers and Advisers to the Fund.

It aims to ensure that those involved in the operation of the NESPF do not act improperly or create a perception that they may have acted improperly due to a conflict of interest.

In addition to the requirements of this Policy, Pension Board members are required to adhere to the Terms of Reference of the Pension Board which include declaring any interests that may lead to a conflict situation.

## Application and Scope

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Many of those involved in managing or advising Local Government Pension Scheme (LGPS) Funds will have a variety of other roles and responsibilities for example as a member of the scheme, as an Elected Member of an employer participating in the LGPS or as an adviser to one or more LGPS administering authority. In addition, they may also have an individual personal, business or other interest which might conflict, or be perceived to conflict, with their role as a member of the Pension Board.

For the purposes of a member of the Pension Board, a conflict of interest is defined in Section 5(5) of the Public Service Pensions Act 2013 in relation to a person 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).’*

There is a requirement for Pension Board members not to have a conflict of interest under the 2013 Act. However, it is important to note that the issue of conflicts of interest must be considered in light of the Pension Board's role, which is to assist the administering authority.

The Pension 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 were making decisions on a regular basis e.g. in comparison to the Pensions Committee. Regardless, a robust procedure needs to be in place to identify, monitor and manage conflicts effectively where they do arise.

The Pensions Regulator ('the Regulator') has a particular role to play in relation to members of the Pension Board and conflicts of interest. Whilst members of the Pension Board may be subject to other legal requirements while exercising their functions, the Regulator expects the requirements which specifically apply by virtue of the Public Service Pensions Act 2013 ('PSPA 2013') to be met and the standards of conduct and practice set out in its *Code of Practice* to be complied with.

Code of Practice 14 on governance and administration of public service pension schemes offers guidance about managing potential conflicts and in 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 ('LGPS') context.

## Stage 1 – Identifying Conflicts of Interest

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### 1. The Pension Board

A conflict of interest may arise when a member of the Pension Board has to 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 Pension Board member.

The LGPS Regulations place a duty on the administering authority to satisfy itself that those appointed to its Pension Board do not have an actual conflict of interest prior to appointment and 'from time to time'.

There is a corresponding duty on any person who is proposed to be appointed to the Pension Board, and on an appointed member of the Pension Board, to provide the administering authority with such information as the administering authority reasonably requires to be satisfied that there are no conflicts of interest. Pension Board members also have a responsibility to anticipate potential conflicts of interest in relation to plans for future Pension Board activity.

In order to meet this duty, NESPF requires Pension Board members to complete a 'Declaration of Interest' form on appointment to their role or on the commencement of this Policy, if later.

The information provided by each individual will be collated into the NESPF 'Conflicts Register' which will be monitored and updated on an ongoing basis. Each individual Board member will be responsible for keeping NESPF updated with any changes or additions during their term of appointment to the Board.

### 2. Advisers to the Board

Conflicts of interest may also arise in respect of advisers to the Pension Board. For example, an adviser may have a conflict of interest if he or she (or the same firm) is also advising the administering authority. The risk to the Pension Board is that the adviser does not provide, or is not seen to provide, independent advice.

Where there is likely to be a conflict of interest in giving advice, the Pension 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.

## Stage 2 – Monitoring the Conflicts of Interest

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In order for the administering authority to fulfil its obligation to ensure that members of the Pension Board do not have a conflict of interest, at the commencement of the meeting where Pension Fund matters are to be discussed, the Chairman of the Board will ask those present who are covered by this Policy to declare any interests or potential conflicts.

The Pension Board must include an item on conflicts and/or interests declared at each meeting in the record of the meeting. Such a conflict could be in relation to a general subject area or to a specific agenda item of a Pension Board meeting.

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

- the conflicts of interest requirements of the PSPA 2013 and the LGPS Regulations, and
- in the spirit of any national guidance or Code of Practice in relation to conflicts of interest for Pension Board members

Each member of the Pension Board, or a person proposed to be appointed to the Board (as well as attendees participating in the meeting) must provide the Chair of the Pension Board with such information as they reasonably require for the purposes of demonstrating that there is not a conflict of interest.

## Stage 3 – Managing Conflicts of Interest

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Pension 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 Pension 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 of the Pension Board. The 'Conflicts Register' can be provided to assist.

The Pension Board may seek 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 members of the Pension Board must know how to identify where 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 must also appreciate their legal duty under the Regulations to provide information to the administering authority in respect of such conflicts of interest.

Any individual who considers that they have a potential or actual conflict of interest which relates to an item of business at a meeting, must advise the Chair of the Pension Board prior to the meeting where possible, or state this clearly at the earliest possible opportunity in the meeting. A decision should then be reached on whether further action needs to be taken.

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In the event an actual conflict of interest arises the following option(s) exist in terms of management:

- a member can withdraw from the discussion and decision making process;
- the Pension Board can establish a sub-board to review the issue (where the Terms of Reference give the power to do so); or
- a member can resign from the Pension Board if the conflict is so fundamental that it cannot be managed in any other way.

### Ongoing Management

NESPF will maintain a 'Conflicts Register' on an ongoing basis to record and monitor all potential or actual conflicts noted prior to or during Pension Board meetings.

Every 12 months all individuals will be asked to complete a new 'Declaration of Interest' form confirming that the information held on the Register is correct or highlighting any changes that need to be made to the declaration.

## Supporting Procedures and Documentation

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This policy is supported by wider NESPF and ACC governance policies and procedures, including but not limited to:

- Councillors' Code of Conduct
- Employee Code of Conduct
- Conflicts Register
- Pension Board Appointment Procedure

## Responsibilities

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Day to day responsibility for the implementation of this policy sits with the Chief Officer-Finance and dedicated staff within the Pensions Team.

The Pensions Committee will review this policy annually, or in the event of a policy revision and taking account of the results from any training needs analysis and emerging issues.

Any questions or feedback on this document should be forwarded to the **Governance Team**:

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### **Examples of Conflicts of Interest**

Below are some examples of how a conflict might arise, specifically in relation to a member of a Pension Board.

Pension Board members may, from time to time, be required to scrutinize a decision which may be, or appear to be, in opposition to another interest or responsibility. For example:

1. The Pension Board might review a decision by the Pensions Committee to levy an additional charge (under the Regulations) on a group of employers whose poor performance in carrying out their statutory functions in respect of the LGPS has resulted in the administering authority incurring additional costs. Any Board member employed by an affected employing authority would need to declare their interest in order for the potential conflict to be identified and managed to prevent an actual conflict arising.
2. A Pension Board member holds shares, worth only a few hundred pounds, in a company valued at £10's of millions which provides services to the Fund. The Pension Board is reviewing the governance of the performance of the provider and the decision to extend the term of the contract. The Pension Board is not responsible for extending the term of the contract and it will not impact on the company's share price. However, the Board member should still declare their interest and it should be recorded in the meeting minutes that the Board judged the interest insufficiently material to require any further action to be taken i.e. to exclude the member from discussing or voting.
3. Where an employer representative on the Board only acts in the interests of the administering authority, rather than in the interests of all participating employers. Similarly, where a trade union (or member) representative on the Board, only acts in the interests of their union rather than in the interest of all scheme members.
4. Where an employer representative on the Board has access to information by virtue of their employment which could influence a decision of the Pensions Committee or inform the considerations of the Pension Board. This knowledge (whether disclosed or not) would result in a conflict of interest where it prejudices the individuals ability to carry out their functions as a representative of the Pension Board.

## APPENDIX II

### Sample of NESPF 'Conflicts Register'

Conflicts Register							
Date Identified	Name of Trustee	Designation	Details of Conflict	How Notified	Action Taken	Follow up required (Yes/No)	Date resolved
20/03/2023	Councillor <i>Name</i>	Pensions Committee	Trustee of <i>Other</i>	At start of Pensions Committee meeting	Removed from the meeting whilst matter was being discussed	No	20/03/2023





## DECLARATION OF INTERESTS

I, \_\_\_\_\_, am a member of the North East Scotland Pension Fund Pension Board, and I set out below my interests which I am required to declare under the NESPF Pension Board Conflicts of Interest Policy.

**I further understand that it is my responsibility to notify the Pensions Manager, in writing, of any applicable change(s) in circumstances within one month of the change(s) occurring.**

Please note if you have any doubts as to whether or not you should declare a particular interest, it is wiser to supply the information rather than omit something which you should have declared.

### 1. North East Scotland Pension Fund Status

Please indicate your current connection with the North East Scotland Pension Fund (please select as many as applicable):

- ☐ I am an active scheme member
- ☐ I am a deferred pensioner scheme member
- ☐ I am a pensioner scheme member
- ☐ My current employer is an employer in the NESPF (please give the name of your employer): \_\_\_\_\_
- ☐ I am an elected Councillor (please give the name of the local authority): \_\_\_\_\_
- ☐ Other connection (please provide further details) \_\_\_\_\_

### 2. Any Other Interests

a. I am also a member/trustee of the following pension schemes:

\_\_\_\_\_

b. I also hold a position/I am a shareholder in the following companies (continue on a separate sheet if needed):

Organisation	Position/Brief Description of duties	Relationship with NESPF

### 3. Potential Conflict

Please detail any other interests or responsibilities which you have, that could become conflicts of interest and which may adversely affect your membership of the NESPF Pension Board. If you do not have any please state 'None'.

### 4. Undertaking

**I declare that I understand my responsibilities under the NESPF Pension Board Conflicts of Interest Policy and I undertake to notify the Pensions Manager of any change(s) in the information set out above.**

**I confirm the above information to be true & accurate to the best of my knowledge.**

Signed .....

Name (CAPITALS).....

Date .....

E-mail ..... 