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Greater Gwent (Torfaen) Pension Fund Conflicts of Interest Policy

2021/22

Nigel Aurelius, CPFA
Assistant Chief Executive Resources



Greater Gwent (Torfaen) Pension Fund

Conflicts of Interest Policy

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This Statement has been prepared by Torfaen County Borough Council (the Administering Authority) to set out the arrangements for identifying and managing conflicts of interest at the Greater Gwent (Torfaen) Pension Fund.

1. Introduction

Torfaen County Borough Council (Torfaen Council) is the Administering Authority and Scheme Manager for the Greater Gwent (Torfaen) Pension Fund (the Fund"). The Fund administers the Local Government Pension Scheme (LGPS) on behalf of around 61,000 members throughout the Gwent area. This comprises Blaenau Gwent, Caerphilly, Monmouthshire, Newport and Torfaen.

Within its Constitution (section 12), Torfaen Council has delegated responsibility for the administration of the LGPS to a Pensions Committee of elected councillors:

www.torfaen.gov.uk/en/Related-Documents/Democratic-Services/Councils-Constitution.pdf

The Pensions Committee is the decision-making body for the Fund. It is assisted in its role by a Local Pension Board, made up of representatives of LGPS members and LGPS employing organisations. The Pension Board has an oversight and scrutiny role, and gives advice and makes recommendations to the Pensions Committee.

There have always been conflicts of interest for those with LGPS Administering Authority responsibilities. This reflects the fact that the individuals giving advice and/or making decisions will have a variety of other roles and responsibilities. These could include potential or perceived conflicts arising from such things as; themselves or a relative being a member of the LGPS, or being an officer or councillor of an LGPS employer, or having wider personal or business interests. Torfaen Council has identified and managed potential and actual conflicts of interest within the Fund effectively, applying robust practices within the governance structure of the Council, however these have not previously been set out in the form of a specific policy for the Fund.

2. Aims, Objectives and Application

Conflicts of interest can inhibit open discussions and result in decisions, actions or inactions which could lead to ineffective governance and administration of the scheme. In publishing this Conflicts of Interests Policy the LGPS Administering Authority aims to clearly set out, for the information and understanding of all stakeholders, how potential or actual conflicts of interest are identified and managed within the Fund's governance arrangements.

The Conflicts of Interest Policy is also an overview guide for all those with LGPS Administering Authority responsibilities. It applies to all members of the Pensions Committee and the Local Pension Board, and to Council staff involved in LGPS Fund management and administration. This includes investment decision making, either investments made directly by the Fund or through pooled arrangements via the Wales Pension Partnership (WPP). The WPP, set up by the eight LGPS Funds in Wales, has its own conflicts of interest and procedure policy which can be accessed on their website at www.walespensionpartnership.org.

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The overarching aims and objectives of the Fund's Conflicts of Interest Policy are to:

- i. Highlight individual responsibilities, for a person to declare where a personal, financial, business or other interest might come into conflict with their Pension Fund duties;
- ii. Identify and manage as necessary potential, perceived and actual conflicts of interest, towards ensuring that decision-making processes are not compromised by potentially conflicted members. Training will be a core component in identifying and managing conflicts of interest; and
- iii. Ensure effective, fair, and robust decision-making within its governance structures, in line with its fiduciary duty to act in the best interests of LGPS beneficiaries, by cultivating a culture of openness and transparency.

There is further information about the governance of the Fund in the separate Governance Policy and Compliance Statement which can be accessed on the Fund website www.gwentpensionfund.org.uk in the Forms and Publications area.

3. What Constitutes a Conflict of Interest?

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. A conflict of interest could arise when an individual:

- has a responsibility or duty in relation to the management of, or provision of advice to, the LGPS Fund; and
- 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; or
- has an interest that could also arise due to a family member or close colleague having a specific responsibility or interest in a matter

It is not considered to be a conflict of interest for members of the Pensions Committee and Pension Board to be members of the LGPS.

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The Pensions Regulator outlines some examples of potential conflicts of interest in Code 14, **Governance and Administration of Public Service Pension Schemes** (section 89), as outlined below:

Potential conflict of interest	Example to illustrate a potential issue
a. Investing to improve scheme administration versus saving money	An employer representative, who may be a Permanent Secretary, finance officer or local councillor, is aware that system X would help to improve standards of record-keeping in the scheme, but it would be costly to implement. The scheme manager, for instance a central government department or local administering authority, would need to meet the costs of the new system at a time when there is internal and external pressure to keep costs down. In order to meet the costs of the new system, the scheme manager would need to find money, perhaps by using a budget that was intended for another purpose. This decision could prove unpopular with taxpayers. A conflict of interest could arise where the employer representative was likely to be prejudiced in the exercise of their functions by virtue of their dual interests.
b. Outsourcing an activity versus keeping an activity in-house	In an extension of the previous example, a member representative, who is also an employee of a participating employer, is aware that system X would help to improve standards of record-keeping in the scheme, but it would mean outsourcing an activity that is currently being undertaken in-house by their employer. The member representative could be conflicted if they were likely to be prejudiced in the exercise of their functions by virtue of their employment.
c. Representing the breadth of employers or membership versus representing narrow interests	An employer representative who happens to be employed by the administering authority and is appointed to the pension board to represent employers generally could be conflicted if they only serve 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 pension board to represent the entire scheme membership could be conflicted if they only act in the interests of their union and union membership, rather than all scheme members.
d. Assisting the Scheme Manager versus furthering personal interests	<p>i. A Pension Board member, who is also a scheme adviser, may recommend the services or products of a related party, for which they might derive some form of benefit, resulting in them not providing, or not being seen to provide, independent advice or services</p> <p>ii. A Pension Board member who is involved in procuring or tendering for services for a scheme administrator, and who can influence the award of a contract, may be conflicted where they have an interest in a particular supplier, for example, a family member works there.</p>
e. Sharing information with the Pension Board versus a duty of confidentiality to an employer	An employer representative has access to information by virtue of their employment, which could influence or inform the considerations or decisions of the Pension Board. They have to consider whether to share this information with the Pension Board 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 Pension Board.

4. Obligations on Members of the Pensions Committee and Local Pension Board

The Pensions Committee and Pension Board follow the same high standards of conduct, regarding identifying and managing any potential or actual conflicts of interest. However the legislative requirements and guiding principles which formally apply to each body come from differing sources.

In addition to the requirements of this policy, **the Localism Act 2011** requires elected members to declare any conflicts of interest they may have. **The Local Government Act 2000** requires the Council to adopt a Code of Conduct regarding the conduct of its elected members and co-opted members (i.e. Councillors). **The Welsh Parliament** issued a Model Code of Conduct under its powers, which Torfaen Council has adopted. This is set out in the Council's Constitution:

www.torfaen.gov.uk/en/Related-Documents/Democratic-Services/Councils-Constitution.pdf

(Appendix 1), and also requires Councillors to disclose any personal interest they may have in the Council's business which may be prejudicial, i.e. which may constitute a conflict of interest.

The Pension Board was set up in 2015 under **Terms of Reference** and is independently chaired in accordance with best practice and good governance. A copy of the Terms of Reference can be provided on request. Section 15 requires members to declare any personal interest they may have i.e. which may constitute a conflict of interest. Although members of the Pension Board are not themselves Councillors, the Terms of Reference requires them to abide by Torfaen Council's Code of Conduct for Councillors.

The LGPS comes under the oversight of **The Pensions Regulator (TPR)**, set up by the government. TPR publishes guidance and Codes of Practice for pension schemes. This includes **Code 14, The Governance and Administration of Public Service Pension Schemes** in which TPR includes guidance on identifying and managing conflicts of interest within Pension Boards:

[Code 14 Public service pension code of practice | The Pensions Regulator](#) (sections 61 to 89).

The requirement for TPR to issue this guidance for Pension Boards comes under the **s90A of the Pensions Act 2004 and, under s13, TPR** can issue an Improvement Notice (requiring steps to be taken to rectify a situation) where they consider requirements relating to conflicts of interest are not being met.

The LGPS also has a national Scheme Advisory Board which publishes guidance for Pension Boards in LGPS Funds. This highlights that, although the Pension Board does not make decisions, steps need to be taken to identify, monitor and manage conflicts effectively. In addition, Torfaen Council is obliged, under **both r108 of the LGPS Regulations 2013 and s5 of the Public Service Pensions Act 2013**, to satisfy itself that Pension Board members do not have a conflict of interest, and also requires the members to provide the Council with the information it needs in order to do this.

Also, members of Councils are required to follow a Code of Conduct issued by and enforced by **the Public Service Ombudsman for Wales**:

www.ombudsman.wales/wp-content/uploads/2018/03/Code-of-Conduct-Community-Councils-August-2016-ENGLISH.pdf

These principles are: 1. Selflessness, 2. Honesty, 3. Integrity and Propriety, 4. Duty to Uphold the Law, 5. Stewardship, 6. Objectivity in Decision-making, 7. Equality and Respect, 8. Openness, 9. Accountability and 10. Leadership. They include and build on the Seven Principles of Public Life: www.gov.uk/government/publications/the-7-principles-of-public-life

5. How the Council Manages Actual or Perceived Conflicts of Interest

Members of the Pensions Committee and Pension Board are required, following appointment or election, to disclose in writing any personal interests that they may have, and any subsequent changes.

Also, at the beginning of each meeting of the Pensions Committee and Pension Board, members are required to disclose any personal interests that they may have orally and a record is maintained and publically documented by the Council's democratic services team.

Torfaen Council's Monitoring Officer records any disclosures in a Register of Interests. This ensures that disclosed interests which have the potential to become conflicts of interest are monitored and not ignored. Member declarations of interest are published in the public domain on Torfaen Council's website:

<http://moderngov.torfaen.gov.uk/mgListCommittees.aspx>, within the Pensions Committee and Local Pension Board areas.

Disclosures of a personal interest, and which may be prejudicial to the public interest, and constitute a conflict of interest, will be evaluated against the Code of Conduct, Appendix 1, which contains criteria outlining what constitutes a personal and prejudicial interest.

Where members do have an actual conflict of interest, the Fund may request further detail of the relevant conflict of interest to ensure that its nature and potential impact is fully understood. If this is sustained, members are required, under the Code of Conduct, unless they have a dispensation from the Ethics and Scrutiny Committee, to:

1. Leave the meeting, while the relevant business is being considered.
2. Not seek to exercise their functions, influence a decision, or make written or oral representation, about the business under consideration.

Within Torfaen Council's Constitution, the Ethics and Scrutiny Committee has a role in managing alleged breaches of the Councillors' Code of Conduct, relating to conflicts of interest (Appendix 1 of the Constitution). Alleged breaches are also subject to investigation by the Public Services Ombudsman for Wales, who may refer such allegations for investigation and reporting to the Council's Monitoring Officer, and for consideration by the Council's Ethics and Standards Committee.

The Pension Board Terms of Reference makes provision, where a conflict of interest cannot be managed, for a member to be removed from office during their term of appointment.

6. Service Providers

The Fund employs a number of specialist professional service providers including Pensions Advisers, Investment Managers and a Global Custodian. There may in some circumstances be potential for a conflict of interest to arise where a service provider to the Fund is also a service provider to another organisation. The Fund will aim to make provision in contracts of appointment that a service provider can only continue to provide services to the Fund where there is no conflict of interest in them doing so.

In addition to making investment decisions on behalf of the Fund, pensions monies are also invested via the Wales Pension Partnership (WPP), a collaborative investment pooling arrangement set up by the eight LGPS Funds in Wales. To support the role of officers, professionally qualified advisors are appointed to assist members in making investment decisions. In line with CIPFA governance principles Service Providers are:

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- Required to have regard for perceived and actual conflicts of interest that could arise; and
- Ensure declarations are updated appropriately and in a timely manner.

WPP personnel and providers are required to abide by the provisions of the WPP's own conflicts of interest policy, which can be downloaded from its website:

www.walespensionpartnership.org.

7. Review

This Conflict of Interest Policy will be subject to regular review for any material change that could affect the policy, and then with appropriate consultation. Feedback is also welcomed on this Conflict of Interest Policy and should be sent to the Council for the attention of the Head of Pensions, Greater Gwent (Torfaen) Pension Fund, Torfaen Council, Civic Centre, Pontypool, Torfaen, Gwent NP4 6YB, or by email to pensions@torfaen.gov.uk.

Resources Directorate
Torfaen County Borough Council
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