

**Conflicts of Interest Policy**

**November 2024**



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**Contents**

[**Introduction** 3](#_Toc181109253)

[**Aims and Objectives** 3](#_Toc181109254)

[**Who does this Policy apply to?** 4](#_Toc181109255)

[**What is a conflict or potential conflict?** 4](#_Toc181109256)

[**Managing conflicts** 5](#_Toc181109257)

[**Responsibility** 6](#_Toc181109258)

[**Operational procedures** 6](#_Toc181109259)

[**Identifying conflicts** 6](#_Toc181109260)

[**Managing conflicts** 6](#_Toc181109261)

[**Monitoring conflicts** 6](#_Toc181109262)

[**Appendix 1 - Legislative background and related guidance** 8](#_Toc181109263)

[**Appendix 2 – Some examples of potential conflicts of interest** 10](#_Toc181109264)

# **Introduction**

This is the Conflicts of Interest Policy (the Policy) for the North Yorkshire Pension Fund (NYPF), administered by The North Yorkshire Council (NYC). The Policy sets out the process for identifying, monitoring and managing conflicts of interest in the governance and management of the NYPF.

Conflicts of interest have always existed for those with Local Government Pension Scheme (LGPS) administering authority responsibilities as well as for advisers to LGPS funds. This reflects the fact that many of those managing or advising LGPS funds will have a variety of other roles and responsibilities, for example, as an elected member of an employer participating in the LGPS or as an adviser to more than one LGPS administering authority. Further, any of those persons may have an individual personal, business or other interest which might conflict, or be perceived to conflict, with their role managing or advising LGPS funds.

LGPS administering authorities have both fiduciary and public law duties to act in the best interests of both the scheme beneficiaries and participating employers. This, however, does not preclude those involved in the management of the NYPF from having other roles or responsibilities which may result in an actual or potential conflict of interest.

This Policy is a guide for the Pension Fund Committee Members, Pension Board members, officers and advisers. It aims to ensure that those individuals do not act improperly or create a perception that they may have acted improperly. It is an aid to good governance, in conjunction with the NYPF’s other governance documents, encouraging transparency and minimising the risk of any matter prejudicing decision making or management of the NYPF.

This Policy also identifies areas of potential conflict that are specific to the LGPS that would be dealt with in the same manner as conflicts of interest under the Members’ codes of conduct and Employees’ codes of conduct.

In preparing this policy it is noted that it is not just actual or potential conflicts which pose a risk to the NYPF. Where there is a perception that a conflict exists, even where it is not the case, this must be taken into account.

The legislative background currently largely relates to managing conflicts of interest with respect to members of Local Pension Boards. In the interests of best practice, this Policy will relate to all individuals involved in the management and governance of the NYPF. Further information on the legislative background and related guidance is attached as Appendix 1.

# **Aims and Objectives**

In relation to the governance of the NYPF, the administering authority's objectives are to:

* Act in the best interests of the NYPF’s members and employers
* Have robust governance arrangements in place, to facilitate informed decision making, supported by appropriate advice, policies and strategies
* Ensure that the NYPF is managed, and its services delivered, by people who have the appropriate knowledge and expertise
* Act with integrity and be accountable to stakeholders for all decisions, ensuring they are robust and well based
* Understand and monitor risk
* Strive to ensure compliance with the appropriate legislation and statutory guidance, and to act in the spirit of other relevant guidelines and best practice guidance
* Clearly articulate its objectives and how it intends to achieve those objectives through business planning, and continually measuring and monitoring success
* Ensure the confidentiality, integrity and accessibility of the NYPF's data, systems and services is protected and preserved

The identification and management of potential and actual conflicts of interest is integral to NYC achieving its governance objectives as the administering authority of the NYPF.

# **Who does this Policy apply to?**

This Policy applies to:

* all Members of the Pension Fund Committee and the Pension Board, including scheme member and employer representatives, whether voting members or not,
* the Chief Finance Officer (Section 151 Officer),
* any other officer of NYC who has responsibilities relating to the NYPF,
* all advisers and suppliers, whether advising the Pension Board, Pension Fund Committee or officers.

The Head of Pensions Administration will monitor potential conflicts for officers involved in the daily management

of the NYPF and highlight this Policy to them as they consider appropriate.

This Policy and the issue of conflicts of interest in general must be considered in light of each individual's role, whether this is a management, advisory or assisting role and including responsibilities representing the NYPF on other committees, groups and bodies.

In this Policy, reference to advisers includes all advisers, suppliers and other parties providing advice and services to NYC as the administering authority. This includes but is not limited to actuaries, investment consultants, independent advisers, benefit consultants, third party administrators, shared service partners, fund managers, lawyers, custodians and AVC providers. Where an advisory appointment is with a firm rather than an individual, reference to "advisers" is to the lead adviser(s) responsible for the delivery of advice and services to the NYPF rather than the firm as a whole.

In accepting any role covered by this Policy, those individuals agree that they must:

* acknowledge any potential conflict of interest they may have;
* be open with NYC and any other body on which they represent NYC, on any actual or potential conflicts of interest they may have;
* adopt practical solutions to managing those conflicts; and
* plan ahead and agree with NYC how they will manage any conflicts of interest which arise in future.

The procedures outlined later in this Policy provide a framework for each individual to meet these requirements.

# **What is a conflict or potential conflict?**

The Public Service Pensions Act 2013 defines a conflict of interest as a financial or other interest which is likely to prejudice the way in which someone carries out their role. It further specifies that a conflict does not include a financial or other interest arising merely by virtue of that person being a member of the scheme or any connected scheme. Therefore, a conflict of interest may arise when an individual:

* has a responsibility or duty in relation to the management of or provision of advice to the NYPF; and
* at the same time, they:
  + have a separate personal interest (financial or otherwise), or
  + another responsibility in relation to that matter or have a family member or close colleague having a specific responsibility or interest in that matter which gives rise to a possible conflict with their first responsibility.

**Perceived conflicts of interest**

A perceived conflict of interest occurs when it appears that a conflict of interest may exist, even if that is not the case. For example, a committee member might be in a sports team that plays against opponents connected to a third party provider that goes on to tender to provide a service to the Fund; creating a perception that a social connection may have swayed the decision making process.

In this example there is a reputational risk that a decision maker may have been unduly influenced even though they may not have been aware of the situation and it was not relevant to the decision being made.

Where individuals are aware of a perceived conflict this must be declared. Where no conflict exists, this decision can be documented to mitigate the reputational risk.

# **Managing conflicts**

The Fund takes a three stage approach to managing conflicts:

* identifying
* managing
* monitoring

To assist members of the Committee, members of the Board, officers, advisers and suppliers to identify when a conflict may arise, some examples of potential conflicts are attached as Appendix 2.

The NYPF encourages a culture of openness and transparency and encourages individuals to be vigilant, have a clear understanding of their role and the circumstances in which they may find themselves in a position of conflict of interest, and of how potential conflicts should be managed.

The Head of Pensions Administration in conjunction with the Monitoring Officer, or their nominees, will evaluate the nature of any dual interests or responsibilities that are highlighted and assess the impact on operations and good governance were an actual conflict of interest to materialise.

Ways in which the Fund will deal with actual conflicts of interest may include:

* the individual concerned abstaining from discussion, decision-making or providing advice relating to the relevant issue
* the individual excluding themselves from the meeting(s) and any related correspondence or material in connection with the relevant issue
* a working group or sub-committee being established, excluding the individual concerned, to consider the matter outside of the formal meeting (where the terms of reference allow this to happen)

Provided that the Monitoring Officer is satisfied that the method of management is satisfactory, the NYPF will endeavour to avoid the need for an individual to have to resign due to a conflict of interest.

# **Responsibility**

NYC as the Scheme Manager (as defined in the Public Service Pensions Act 2013) for the NYPF must be satisfied that conflicts of interest are appropriately managed. The day to day management of the NYPF is delegated to the Corporate Director Resources. For this purpose, the Head of Pensions Administration is the designated individual for ensuring the procedures outlined in the Policy are adhered to.

However, it is the responsibility of each individual covered by this Policy to identify any potential instances where their personal, financial, business or other interests might come into conflict with their NYPF duties and to follow the requirements of the Policy appropriately.

# **Operational procedures**

## **Identifying conflicts**

Members of the Pension Fund Committee are required to complete their Register of Interests as required for their service as a Councillor, either with NYC or their parent organisation. Pension Board members are required to declare any interests in writing upon appointment. Senior officers involved in the governance and management of the NYPF are required to complete the officers register of interests on appointment. It is the responsibility of each indivdiual to keep their declarations of interest up to date.

It is the responsibility of the individual to identify if a conflict exists and to seek advice from the Monitoring Officer (or their representative) if required.

In advance of any formal meeting, any individual who considers they may have a conflict of interest related to an item of business on the agenda should advise the Chair of the meeting.

At the start of any formal NYPF related meetings, the Chair will ask all individuals present who are covered by this Policy to declare any interests.

## **Managing conflicts**

Where an actual conflict of interest on an agenda item is identified, an individual will be expected to exclude themselves from participating in the discussion and from voting on the relevant matter.

Where a potential conflict of interest on an agenda item is identified, advice will be sought from the Monitoring Officer (or their representative) who will provide guidance regarding the individual’s participation in the relevant discussion and vote based on all the available information.

If an actual or potential conflict of interest is identified outside of a meeting, the Head of Pensions Administration will consult with the Monitoring Officer (or their representative) to consider any necessary action.

## **Monitoring conflicts**

All interests declared in meetings of the Committee, the Board and any other formal NYPF meetings, will be recorded in the minutes of the meeting and noted in the NYC’s Register of Interests (the Register). All actual or potential conflicts of interest identified outside of meetings will also be recorded in the Register.

The Register will be kept under review by the Monitoring Officer (or their representative). The Register may be viewed by any interested party at any point in time.

Potentially sensitive interests should be discussed with the Monitoring Officer (or their representative) who may agree that merely the disclosure of the existence of the interest rather than the detail may be sufficient.

The above operational procedures relate to members of the Committee, members of the Board and senior officers.

All advisers and major suppliers to the NYPF, including the asset pool operator, must:

* be provided with a copy of this Policy on appointment, or on commencement of this Policy if later
* be provided with any updated Conflicts of Interest Policy
* provide, on request, information to the Head of Pensions Administration in relation to how they will manage actual or potential conflicts of interest relating to the provision of advice or services to the NYPF
* notify the Head of Pensions Administration immediately should an actual or potential conflict of interest arise

# **Appendix 1 - Legislative background and related guidance**

The legislative background currently largely relates to managing conflicts of interest with respect to members of Local Pension Boards. In the interests of best practice, this Policy will relate to all individuals involved in the management and governance of the NYPF.

**The Public Service Pensions Act 2013**

Section 4 of this Act requires that the scheme manager (in the case of the LGPS, this is the administering authority) must be satisfied that a local pension board member does not have a conflict of interest at the point of appointment and from time to time thereafter. It also requires Local Pension Board members (or nominated members) to provide reasonable information to the scheme manager for this purpose.

The 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).”

Further, the Act requires that scheme managers must have regard to any such guidance that the national Scheme Advisory Board issue (see below).

**LGPS Scheme Advisory Board (SAB)**

The LGPS national Scheme Advisory Board has issued guidance relating to the creation of Local Pension Boards including a section on conflicts of interest. This Conflicts of Interest Policy has been developed having regard to that guidance.

A November 2019 Phase II report from the working groups of the SAB Good Governance in the LGPS Project proposed that administering authorities must evidence that conflicts, and in particular, potential and perceived conflicts, as well as actual conflicts are being identified, monitored and managed. The report noted that some administering authorities only follow the conflicts of interest requirements of the host authority which are typically focused on the elected member register of interest and code of conduct.

The report proposed that all administering authorities should be required to publish a specific LGPS conflicts of interest policy and should stipulate the areas that policy should address. In addition to registering interests, this would include information on how conflicts are identified, monitored and managed, including areas of potential conflict that are specific to the LGPS as listed in the report.

Implementation of the Good Governance proposals were delayed due to the Covid-19 pandemic, and statutory guidance from Government is still outstanding. However, the proposals have been taken into consideration in the development of this Policy.

**The Local Government Pension Scheme Regulations 2013**

Regulation 108 of these Regulations applies the requirements of the Public Service Pensions Act (as outlined above) to the LGPS, placing a duty on each administering authority to satisfy itself that Local Pension Board members do not have conflicts of interest on appointment or whilst they are members of the Board. It also requires those Local Pension Board members to provide reasonable information to the administering authority in this regard.

Regulation 109 states that each administering authority must have regard to guidance issued by the Secretary of State in relation to Local Pension Boards. Further, regulation 110 provides that the national Scheme Advisory Board has a function of providing advice to administering authorities and Local Pension Boards.

**The Pensions Act 2004**

The Public Service Pensions Act 2013 also added a number of provisions to the Pensions Act 2004 related to the governance of public service pension schemes and, in particular, conflicts of interest.

Section 90A of the Pensions Act 2004 now requires the Pensions Regulator to issue a code of practice relating to conflicts of interest for Local Pension Board members. The Pensions Regulator has issued such a code and this Conflicts of Interest Policy has been developed having regard to that code.

Further, under section 13 of the Pensions Act 2004, the Pensions Regulator can issue an improvement notice (i.e. a notice requiring steps to be taken to rectify a situation) where it is considered that the requirements relating to conflicts of interest for Local Pension Board members are not being adhered to.

**The Localism Act 2011**

Chapter 7 of this Act requires councillors to comply with the code of conduct of their local authority and that code of conduct must be consistent with the Seven Principles of Public Life. In addition, the Act requires that the code of conduct must include provisions requiring the disclosure and registration of pecuniary interests and interests other than pecuniary interests.

**The Seven Principles of Standards in Public Life**

Sometimes known as the ‘Nolan Principles’, the Seven Principles of Public Life apply to anyone who holds public office. This includes people who are elected or appointed to public office, nationally and locally, and all people appointed to work in:

* the civil service
* local government
* the police
* the courts and probation services
* non-departmental public bodies
* health, education, social and care services

The principles also apply to all those in other sectors that deliver public services. Many of the principles are integral to the successful implementation of this Policy.

* Selflessness
* Integrity
* Objectivity
* Accountability
* Openness
* Honesty
* Leadership

**Advisers’ professional standards**

Many advisers will be required to meet professional standards relating to the management of conflicts of interest, for example, the Fund’s Actuary will be bound by the requirements of the Institute and Faculty of Actuaries. Any contract, protocol or other document entered into between an adviser and the administering authority which includes any requirement relating to conflicts of interest, whether as a professional body or otherwise, should be read in conjunction with this Policy.

**CIPFA Investment Pooling Governance Principles for LGPS Administering Authorities Guidance**

The CIPFA governance principles guidance states "the establishment of investment pooling arrangements creates a range of additional roles that committee members, representatives, officers and advisors might have." It includes some examples of how conflicts of interest could arise in these new roles. It highlights the need for Administering Authorities to:

* update their conflicts policies to have regard to asset pooling
* remind all those involved with the management of the Fund of the policy requirements and the potential for conflicts to arise in respect of asset pooling responsibilities
* ensure declarations are updated appropriately.

This Policy takes into account the possibility of conflicts arising in relation to asset pooling in accordance with the CIPFA governance principles guidance.

# **Appendix 2 – Some examples of potential conflicts of interest**

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| An employer representative on the Pension Board is employed by a company contracted to provide goods or services to the NYPF, and the Pension Board is reviewing the standards of service provided by that company. |
| The person appointed to consider internal disputes is asked to review a case relating to a close friend or relative. |
| The administering authority is considering buying its own payroll system for paying pensions, rather than using the payroll system used for all employees of the Council. The Chief Financial Officer, who is responsible for the budget of the Council, is expected to approve the report to go to the Pension Fund Committee which, if agreed, would result in a material reduction in the recharges to the Council. |
| An officer or member of the Pension Fund Committee accepting hospitality or gifts from a potential adviser or supplier could be perceived as a potential or actual conflict of interest, particularly where a procurement exercise relating to those services is imminent. |
| 1. An employer representative on the Pension Board is employed by a company to which the NYC has outsourced its pension administration services and the Pension Board is reviewing the standards of service provided by that company. |
| 1. Officers are asked to provide a report to the Pension Board or Pension Fund 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. |
| An NYPF adviser is party to the development of a strategy which could result in additional work for his / her firm, for example delegating due diligence on fund investments. |
| An elected member on the Pension Committee has a role in driving carbon reduction in their local authority area, which is also the administering authority, to target a net zero ambition that may differ to the carbon reduction targets and net zero ambitions of the Fund. |
| An administrator in the pensions team receives a case to calculate a benefit which relates to a family member, close friend or colleague. |