

Croydon Council

REPORT TO:	Pension Board 27 July 2023
SUBJECT:	Conflicts of Interest Policy
LEAD OFFICER:	Matthew Hallett, Acting Head of Pensions and Treasury

1. RECOMMENDATION

- 1.1 The Board are asked to comment on the recommended Conflicts of Interest Policy.

2. EXECUTIVE SUMMARY

- 2.1 This report advises the Board of the arguments for adopting a whole Fund Conflicts of Interest Policy and invites their comments on the draft attached as Appendix B.

3. DETAIL

- 3.1. In accordance with LGPS Regulations 2013 (S108) and Scheme Advisory Board Guidance, in July 2015, the Fund adopted a Conflicts of Interest Policy for the Pension Board.
- 3.2 Conflicts are currently more broadly managed as follows:

- Committee members and co-opted members are required to adhere to the “Constitution of the London Borough of Croydon” [as at 14 April 2023] Part 5.1 Section 9 and Appendix B accessible via:

<https://democracy.croydon.gov.uk/documents/s46562/Part%205I%20MEMBERS%20CODE%20OF%20CONDUCT.pdf>

and must have proper operational procedures in place described in a written statement further to Regulation 55 of The Local Government Pension Scheme Regulations 2013.

- Officers of the Council are required to adhere to the Staff Code of Conduct Section 4, the first paragraph of which states as follows:

You have an obligation to act in the best interests of the council and to avoid situations where there may be a potential conflict of interest e.g. where your personal loyalties could lead you to act in a way that is not in keeping with your loyalty to the council. You must take steps to resolve any conflicts arising in a way that protects the public interest, including

declaring private interests as below [in Code of Conduct].

- 3.3 In their Governance Review of the Fund, Aon go into some detail as to how conflicts of interest are currently managed and, whilst they acknowledge that current practices meet current legal requirements, they argue that they could be improved to meet good practice and national guidance. As regards a Policy to cover the whole of the Fund's management they comment as follows:

Clearly this is not a legal requirement but, as mentioned earlier in the report, we would encourage the Administering Authority to develop a Fund specific policy outlining how conflicts of interest will be managed and dealt with at a Fund level. This could include reference to:

- *the Council's Code of Conduct*
- *how it relates to co-optees and observers*
- *examples of Fund specific potential conflicts of interest*
- *how conflicts of interest (and potential conflicts of interest) will be managed*
- *guidance for officers and advisers of the Fund to also adhere to*

- 3.4 In the Action Plan Aon further comment:

This [Conflict of Interest declarations and approach for implementing Fund wide policy] should involve implementing the requirements of the Fund wide Conflict of Interest Policy including:

- *it should clearly set out who conflicts should be reported to*
- *require all parties to complete a declaration and allow for an annual exercise to reaffirm declarations*
- *implement conflict register*

- 3.5 During 2019, working groups acting on behalf of the Scheme Advisory Board made a number of proposals in their "Good Governance Review" and, on 3 February 2020, these were accepted by the Board. Amongst these proposals was the following:

B.1 Each fund must produce and publish a conflicts of interest policy which includes details of how actual, potential and perceived conflicts are addressed within the governance of the fund, with specific reference to key conflicts identified in the Guidance.

The Board requested that the working groups provide further detail on the implementation of this proposal.

In their report dated February 2021 the working groups reported on this matter as detailed in Appendix A. It is expected that these recommendations will be reflected in legislation and / or statutory guidance and this Policy aims to reflect many of the recommendations within the "Good Governance Review." It will be reviewed once the recommendations are enacted in legislation and statutory guidance as necessary to ensure compliance.

3.6 The Pensions Regulator's new single Code of Practice relating to Conflicts of Interest (TGB039) states:

“Scheme managers should consider conflicts of interest in identifying and evaluating risks (see Identifying and assessing risks). Where relevant, our expectations on scheme managers for identifying and recording conflicts of interest are the same as the list above’. Some of those requirements are as follows:

Identifying and recording conflicts of interest

- Have a clear understanding of the importance of managing conflicts of interest and the circumstances in which they may arise;
- Understand any requirements of the scheme's governing documentation, or regulations under which it may operate, in relation to conflicts of interest; and
- Encourage a culture of openness and transparency in relation to conflicts of interest.

Maintain a written policy for managing actual and perceived conflicts of interests

- Maintain a register of interests which should be considered in every meeting of the governing body;
- Ensure all members of the governing body, advisers and service providers make declarations of interests and conflicts at their appointment, and as they arise;
- Ensure contracts and terms of appointment require advisers and service providers to operate their own conflicts policy and disclose all conflicts to the governing body;
- Record conflicts of interest in relation to a decision-making process, as well as the action taken to manage them, in the written records of the meeting (see Meetings and decision-making);
- If carrying out transactions with related parties, governing bodies should ensure transparency by complying with 'Financial Reporting Standard (FRS) 102 – Related Party Disclosures;' and
- Consider seeking independent legal advice to help decide the best approach to manage or avoid an actual or potential conflict of interest.

It is expected that a further version of the draft single Code is due to be published this year, now re-branded as the General Code. It may, therefore, be the case that there are changes to the draft guidance summarised above.

- 3.7 On 20 June 2023 the Committee were asked to agree the draft Conflicts of Interest Policy included as Appendix B but were disinclined to do so. A revised version of the report will be presented to them at their meeting of 19 September.
- 3.8 Meantime, the Board are invited to comment on the draft Policy attached as Appendix B

4. DATA PROTECTION IMPLICATIONS

- 4.1 Will the subject of the report involve the processing of 'personal data'?

No.

Has a data protection impact assessment (DPIA) been completed?

No. This report relates to matters relating to the administration of the LGPS and the Croydon Pension Fund.

Approved by: Allister Bannin on behalf of Jane West, Corporate Director of Resources (Section 151 Officer)

CONTACT OFFICER:

BACKGROUND DOCUMENTS:

None.

APPENDICES:

Appendix A: Extract from "Good Governance: Phase 3 Report to SAB" February 2021

Appendix B: Conflicts of Interest Policy