



# Conflict of Interest Policy

March 2020

# Essex Pension Fund

## Introduction

The potential for 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 simply reflects the fact that many of those managing or advising 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 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.

It is generally accepted that LGPS administering authorities have both fiduciary and public law duties to act in the best interest of both the scheme beneficiaries and participating employers. This, however, does not preclude those involved in the management of the fund from having other roles or responsibilities which may result in an actual or potential conflict of interest. Accordingly, it is good practice to document within a policy, such as this, how any such conflicts or potential conflicts are to be managed.

This is the Conflict of Interest Policy of the Essex Pension Fund, which is managed and administered by Essex County Council (the Administering Authority). The Policy details how actual and potential conflicts of interest are identified and managed by those involved in the management and governance of the Essex Pension Fund whether directly or in an advisory capacity.

This Conflict of Interest Policy is established to guide Essex Pension Fund Strategy Board (PSB) Members, Essex Pension Fund Investment Steering Committee (ISC) Members, Essex Pension Fund Advisory Board (PAB) Members, Fund Officers and Advisers. Along with other constitutional documents, including the various Codes of Conduct, 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, encouraging transparency and minimising the risk of any matter prejudicing decision making or management of the Fund otherwise.

This Conflict of Interest Policy is a key tool for all the stakeholders in the Essex Pension Fund to assist in complying with the law and meeting the Fund's objective to act with integrity.

## To whom this Policy Applies

This Conflict of Interest Policy applies to all Members of the PSB, ISC and PAB, including scheme member and employer representatives, whether voting members or not. It applies to all managers in the Essex County Council Pension Fund Management Team, and the Executive Director, Finance and Technology (Section 151 Officer) who are, from hereon in, collectively referred to as the 'senior officers of the Fund'.

The Director for Essex Pension Fund will monitor potential conflicts for less senior officers involved in the daily management of the Fund and highlight this Policy to them as the Director for Essex Pension Fund considers 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 Fund on other boards, committees, groups and bodies.

The Policy also applies to all advisers and suppliers to the Fund, whether advising the PSB, ISC, PAB or Fund officers.

In this Policy, reference to advisers includes all advisers, suppliers and other parties providing advice and services to the Administering Authority in relation to pension fund matters. This includes but is not limited to actuaries, investment consultants, independent advisers, benefits consultants, third party administrators, 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 Administering Authority 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 the Administering Authority and any other body on which they represent the Administering Authority, on any actual or potential conflicts of interest they may have;
- adopt practical solutions to managing those conflicts; and
- plan ahead and agree with the Administering Authority 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.

### **Legislative and related context**

The overriding requirements in relation to the management of potential or actual conflicts of interest for those involved in LGPS funds are contained in various elements of legislation and guidance. These are considered further below.

#### The Public Service Pensions Act 2013

Section 5 of this Act requires that the scheme manager (in the case of the LGPS, this is the Administering Authority) must be satisfied that a PAB (referred to in legislation as the Local Pension Board) Member does not have a conflict of interest at the point of appointment and thereafter. It also requires PAB 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).

#### 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 PAB Members do not have conflicts of interest on appointment or whilst they are Members of the Board. It also requires those PAB 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 (PAB). Further, regulation 110 provides that the national Scheme Advisory Board has a function of providing advice to Administering Authorities and Local Pension Boards. The LGPS National Scheme Advisory Board issued guidance relating to the establishment of Local Pension Boards including a section on conflicts of interest. This Conflict of Interest Policy has been developed having regard to that guidance.

#### The Pensions Act 2004

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

Further, under section 13, 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 PAB Members are not being adhered to.

### 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 advisers 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; and
- ensure declarations are updated appropriately.

This Conflict of Interest Policy has been updated to take account of the possibility of conflicts arising in relation to asset pooling in accordance with the CIPFA governance principles guidance. This is particularly important given the role of Essex County Council in hosting the ACCESS Support Unit for the LGPS ACCESS Pool.

### Localism Act 2011

All members and co-opted members of the PSB and the ISC are required by the Localism Act 2011 to register and declare 'disclosable pecuniary interests' and abide by Essex's Code of Conduct for Members. That Code contains provisions relating to Code Interests and Disclosable Pecuniary Interests, their disclosure and limitations on members' participation where they have any such interest.

### 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; and
- 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. The principles are as follows:

- selflessness;
- integrity;
- objectivity;
- accountability;
- openness;
- honesty; and
- 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 Actuary will be bound by the requirements of the Institute and Faculty of Actuaries. Any Protocol or other document entered into between an adviser and the Administering Authority in relation to conflicts of interest, whether as a requirement of a professional body or otherwise, should be read in conjunction with this Policy.

## **Other Administering Authority Requirements**

### Pension Advisory Board (PAB) Members

The PAB Terms of Reference require the Board to adopt a policy for identifying and managing potential conflicts of interest. The Board has adopted this Policy. In addition to the requirements of this Policy, PAB Members are required to adhere to paragraphs 24.1 to 24.5 of the Essex County Council's Members' Code

of Conduct in relation to the standards of conduct of Board members, including the non-disclosure of confidential information.

### Employees

In addition to the requirements of this Policy, officers of Essex County Council are required to adhere to the Essex County Council Officers' Code of Conduct, its Declarations of Interest Policy and its Gifts and Hospitality Policy which includes requirements in relation to the disclosure and management of potential or actual conflicts interest or relationships (financial and non-financial) that may impact on their work or that of Essex County Council.

Senior officers of the Fund will, as a matter of course provide advice and support on pension fund matters. It should be noted that in doing so there can be no **legal** conflict of interest between Essex County Council in its role as employer and in its role as administering authority since both are the same legal person.

### Advisers

The Administering Authority appoints its own advisers. There may be circumstances where these advisers are asked to give advice to scheme employers, or even to scheme members or member representatives such as the Trades Unions, in relation to pension matters. Similarly, an adviser may also be appointed to another administering authority which is involved in a transaction involving the Essex Pension Fund and on which advice is required or to a supplier or organisation providing services to the Essex Pension Fund. An adviser can only continue to advise the Administering Authority and another party where there is no conflict of interest in doing so.

An adviser appointed to advise the PSB, ISC, PAB or Fund officers can be the same person, as long as there is no conflict of interest between the multiple responsibilities.

### Conduct at Meetings

There may be circumstances where a representative of employers or members wishes to provide a specific point of view on behalf of an employer (or group of employers) or member (or group of members). The Administering Authority requires that any individual wishing to speak to advocate on behalf of specific person or organisation or to represent the views of a group of such persons must state this clearly at the meeting and this will be recorded in the minutes.

### **What is a Conflict or Potential Conflict and how will they be managed?**

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.

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 LGPS fund administered by Essex County Council;
- at the same time has a separate personal interest (financial or otherwise); or
- has another responsibility in relation to that matter, giving rise to a possible conflict with their first responsibility; or
- has an interest due to a family member or close colleague having a specific responsibility or interest in a matter.

The Administering Authority, Essex County Council, will encourage a culture of openness and transparency and will encourage individuals to be vigilant, have a clear understanding of their role and the circumstances in which they may have a conflict of interest, and of how potential conflicts should be managed.

Essex County Council, as Administering Authority, will evaluate the nature of any dual interests or responsibilities that are highlighted and assess the impact on pension fund operations and good governance were an actual conflict of interest to materialise.

Ways in which conflicts of interest may be managed include:

- the individual concerned abstaining from discussion, decision-making or providing advice relating to the relevant issue;
- the individual being excluded from the meeting(s) and any related correspondence or material in connection with the relevant issue (for example, a report for a PSB meeting); or
- 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 permit this to happen).

Provided that the Administering Authority, (having taken any professional advice deemed to be required) is satisfied that the method of management is satisfactory, Essex County Council shall endeavour to avoid the need to advise an individual to resign due to a conflict of interest or to request the appointing body to reconsider their appointment to the Board or Committee). Where a PAB Member has an actual conflict of interest as defined in the Public Service Pensions Act 2013, the individual will be required to resign from the Board.

#### Minor Gifts and Hospitality

For the purposes of this Policy, gifts such as t-shirts, pens, trade show bags and other promotional items (subject to a notional maximum value of £25 per item) obtained at events such as conferences, training events, seminars, and trade shows, that are offered equally to all members of the public attending the event do not need to be declared. Essex County Council Officers are also required to comply with the ECC Gifts and Hospitality Policy.

#### **Responsibility**

Essex County Council as the administering authority for the Essex Pension Fund must be satisfied that conflicts of interest are appropriately managed. For this purpose, the Director for Essex Pension Fund is the designated individual for ensuring the procedure outlined below is carried out.

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 pension fund duties, to declare and register interests and seek advice and to withdraw from meetings if they are not complying.

#### **Operational procedure for senior officers, PSB, ISC and PAB Members**

The following procedures must be followed by all individuals to whom this policy applies.

***However, it should be noted all Members of the PSB and the ISC have an overriding legal obligation to follow and abide by the requirements of the Localism Act 2011 and Essex County Council's Code of Member Conduct*** relating to the treatment and disclosure of certain disclosable pecuniary interests and Code Interest. Accordingly, for those members, disclosures under this policy may ***be in addition*** to disclosures under the Council's Code of Conduct/the Localism Act 2011.

What is required	How this will be done
<p><i>Step 1 - Initial identification of interests which do or could give rise to a conflict</i></p>	<p>On appointment to their role or on the commencement of this Policy if later, all individuals will be provided with a copy of this Policy and be required to complete a Registration of Interest Form similar to that included in Appendix A.</p> <p>The information contained in these forms will be collated into the Pension Fund Register of conflicts of interest.</p> <p>Members of the PSB are also required to complete an online register of interests and submit it to Essex County Council's Monitoring Officer. This will be published on the internet unless it is agreed that publication of all or part of it will cause a threat to a Member's safety.</p>

What is required	How this will be done
<p><i>Step 2 - Ongoing notification and management of potential or actual conflicts of interest</i></p>	<p>At the commencement of any meeting of the PSB, ISC, PAB or other formal meeting where pension fund matters are to be discussed, the Chairman will ask all those present who are covered by this Policy to declare any interests relevant to any item of business at the meeting as well – whether or not they are already on the register – as well as any new potential conflicts which may not have been recorded and also any other interests which are not required to be recorded.</p> <p>These will be recorded in the record of the meeting and also in the Fund's Register of conflicts of interest. In addition, the latest version of the Register of Interests and the Declaration Log is presented at the first meeting of the PSB, ISC and PAB in each municipal year to ensure it is up to date. The Register and Log is also made available by the Director for Essex Pension Fund to the Chairman of every meeting prior to that meeting if required.</p> <p>At PSB and ISC meetings there will also, at the start of the meeting, be an agenda item for Members to declare any interests under the Members' Code in relation to any items on that agenda.</p> <p>Any individual who considers that they or another individual has a potential or actual conflict of interest, as defined by this Policy, which relates to an item of business at a meeting, is asked to advise the Chairman and the Director for Essex Pension Fund as soon as they become aware of it and preferably prior to the meeting.</p> <p>The Chairman, in consultation with the Director for Essex Pension Fund, should then decide whether the conflicted or potentially conflicted individual is advised to leave the meeting during the discussion on the relevant matter or to withdraw from voting on the matter.</p> <p>With respect to the Code of Member Conduct and the Localism Act 2011, the Monitoring Officer will provide advice. Whilst ultimately it is for the member to decide whether or not to be present, but if they do not follow advice they are at risk of a formal complaint being made.</p> <p>If such a conflict is identified outside of a meeting the notification must be made to the Director for Essex Pension Fund and where it relates to the business of any meeting, also to the Chairman of that meeting. The Director for Essex Pension Fund, in consultation with the Chairman where relevant, will consider any necessary action to manage the potential or actual conflict.</p> <p>The Director for Essex Pension Fund is responsible for monitoring the Register on an ongoing basis to determine if any actual or potential conflict could impact on the ongoing business of the Essex Pension Fund. Where information relating to any potential or actual conflict has been provided, the Director for Essex Pension Fund may seek such professional advice as he or she thinks fit (such as legal advice from the Monitoring Officer of Essex County Council) on to how to address any identified conflicts.</p> <p>Any such potential or actual conflicts of interest and the action taken must be recorded on the Fund's Register of conflicts of interest and in the record of the meeting if raised during a meeting.</p>

What is required	How this will be done
<i>Step 3 - Periodic review of potential and actual conflicts</i>	<p>At least once every 12 months, the Director for Essex Pension Fund will provide to all individuals to whom this Policy applies a copy of the Fund's Register of conflicts of interest. All individuals will be asked to complete a new Declaration of Interest confirming that their information contained in the Register is correct or highlighting any changes that need to be made to the declaration.</p> <p>If a member fails to do so the matter will be escalated to the Chairman of the PSB or Chairman of the PAB (as applicable) in conjunction with the Director for Essex Pension Fund. The updated Register will then be circulated by the Director for Essex Pension Fund to all individuals to whom it relates.</p>

### Operational procedure for advisers

All of the key advisers to the Essex Pension Fund are expected to have their own policies on how conflicts of interest will be managed in their relationships with their clients, and these should have been shared with the Administering Authority, Essex County Council.

Although this Policy applies to all advisers, the operational procedures outlined in steps 1 and 3 above relating to completing ongoing declarations are not expected to apply to advisers. Instead all advisers must:

- be provided with a copy of this Policy on appointment and whenever it is updated;
- adhere to the principles of this Policy;
- provide, on request, information to the Director for Essex Pension Fund in relation to how they will manage and monitor actual or potential conflicts of interests relating to the provision of advice or services to Essex County Council as Administering Authority;
- notify the Director for Essex Pension Fund immediately should a potential or actual conflict of interest arise; and
- highlight at all meetings should a potential or actual conflict of interest arise, preferably at the start of the meeting.

All potential or actual conflicts notified by advisers will be recorded in the Fund's Register of conflicts of interest.

### Monitoring and Reporting

The Fund's Register of conflicts of interest may be viewed by any interested party at any point in time. It can be made available on request to Fund stakeholders (i.e. scheme members or employers) by the Director for Essex Pension Fund. Where the nature of one or more of a members interests is such that it could lead to that individual, or a person connected with that individual, being subject to violence or intimidation then copies of the Register available for inspection and any published version of the Register will not include details of the interest but may state that the individual has an interest, details of which have been withheld in accordance with this Policy. In addition, information relating to how actual or potential conflicts of interest have been managed is available on request.

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

- Review the Register of conflicts 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; and
- Provide its findings to the Administering Authority's Independent Governance and Administration Adviser (IGAA) and ask him or her to include comment on the management of conflicts of interest.

## **Key Risks**

The key risks to the delivery of this Policy are outlined below. All of these could result in an actual conflict of interest arising and not being properly managed. The Director for Essex Pension Fund will monitor these and other key risks and consider how to respond to them.

- Insufficient training or poor understanding in relation to individuals' roles on pension fund matters;
- Insufficient training or failure to communicate the requirements of this Policy;
- Absence of the individual nominated to manage the operational aspects of this Policy and no one deputising, or failure of that individual to carry out the operational aspects in accordance with this Policy;
- Failure by a chairman to take appropriate action when a conflict is highlighted at a meeting; and
- A decision by an individual to disregard advice and be subject to formal action under the Localism Act 2011.

## **Costs**

All costs related to the operation and implementation of this Policy will be met directly by Essex Pension Fund. However, no payments will be made to any individuals in relation to any time spent or expenses incurred in the disclosure or management of any potential or actual conflicts of interest under this Policy.

## **Approval, Review and Consultation**

This Conflict of Interest Policy was approved on 04 March 2020 by the PSB. It will be formally reviewed and updated at least every three years or sooner if the conflict management arrangements or other matters included within it merit reconsideration, including if there are any changes to the LGPS or other relevant Regulations or Guidance which need to be taken into account.

## **Further Information**

If you require further information about anything in or related to this Conflict of Interest Policy, please contact:

Amanda Crawford, Compliance Manager, Essex Pension Fund  
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**Appendix A – Sample of Declaration of Interest Form**

**Sample**

**Form to Register Interests relating to the management of Essex Pension Fund administered by Essex County Council**

*Tick as appropriate*

I, [insert full name], am:

- an officer involved in the management
- Pension Strategy Board Member
- Investment Steering Committee Member
- Pension Advisory Board Member

of Essex Pension Fund and I set out below under the appropriate headings my interests, which I am required to declare under Essex Pension Fund Conflict of Interest Policy. I have put “none” where I have no such interests under any heading.

**Responsibilities or other interests that could result in a conflict of interest** (please list and continue overleaf if necessary):

*A) Relating to me*

*B) Relating to family members or close colleagues or friends*

**Undertaking:**

I declare that I understand my responsibilities under the Essex Pension Fund Conflict of Interest Policy. I undertake to notify the Director for Essex Pension Fund of any changes in the information set out above.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Name (CAPITAL LETTERS) \_\_\_\_\_