



Committee Report

ISLE OF WIGHT COUNCIL

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| Meeting | ISLE OF WIGHT LOCAL PENSION BOARD |
| Date | 6 MARCH 2024 |
| Title | POLICY ON CONFLICTS OF INTEREST |
| Report of | PENSION FUND MANAGER |

Executive Summary

1. This report presents a new Policy on Conflicts of Interest for the Isle of Wight Council Pension Fund. The policy is based on the current code of conduct for councillors contained in the council's Constitution but is more specific to cover potential conflicts arising from the operation of the pension fund.
2. Following review and agreement by the Local Pension Board, the policy will be presented to the Pension Fund Committee at its meeting in May 2024 for adoption.

Recommendations

3. THAT the responsibility for the maintenance and publication of the registers of interest for board and committee members (section 5.1 of the policy) be assigned to Democratic Services, supported by the Pension Governance Compliance Officer.
4. THAT the treatment of potential conflicts identified during meetings be consistent for councillors and other members of the committee and board, as set out in section 5.3 of the policy.
5. THAT the management of potential conflicts of interest with the Council as administering authority for the fund, as set out in section 5.6 of the policy, are agreed.
6. THAT the proposed register of interests at Appendix 2 is agreed.
7. THAT the draft conflicts of interest policy be agreed and recommended for adoption by the Pension Fund Committee at its meeting on 22 May 2024.

Background

8. The Pensions Regulator's General Code of Practice requires those responsible for the governance of pension schemes, including those within the public sector, to have a documented process for identifying, recording and dealing with conflicts of interest which may arise in the management of the pension fund business.
9. To date, the Isle of Wight Council Pension Fund has relied on the conflicts of interest protocols contained within the Council's Constitution, and expected these protocols to be applied to members of the pension committee and local pension board who are not elected members of the council.
10. However, the protocols in the Constitution do not necessarily all apply to the management of the pension fund, and more importantly do not include some key conflicts which may arise as a result of the council being both administering authority for the fund and the largest employer within the fund.
11. In addition, many of the items required to be disclosed on the register of interests as prescribed within the constitution do not apply to members of the local pension board, specifically in relation to land and property interests.
12. Fund officers have worked with the fund's governance consultants, Hymans Robertson LLP, to create a fund-specific conflicts of interest policy, which is presented at appendix 1 to this report.
13. The proposed policy reflects the requirements of the council's constitution but expands on them to include more specific conflicts which could arise in the management of the pension fund.

Policy on conflicts of interest

14. Section 5 of the policy sets out the process for the management and monitoring of conflicts. A decision needs to be made about who is responsible for the maintenance and publication of the registers of interest from committee and board members. It is proposed that this responsibility should rest with Democratic Services, supported by the Pension Governance Compliance Officer.
15. Sections 5.2 and 5.3 of the policy propose that all board and committee members and officers with responsibility for the management of the pension fund functions should complete a register of interests (see appendix 2) on appointment, which will be published on the council's website under "Co-opted Isle of Wight Council registers of interest". The registers should be reviewed at least annually, or more frequently should members' interests change.
16. Section 5.3 also sets out the treatment of conflicts which may arise during a meeting, proposing that this is for the agreement of the chairman of the meeting and the democratic services officer on a case-by-case basis.
17. The Council's Strategic Manager for Legal Services commented that if the potential conflict were identified by a councillor, then it should be for the councillor alone to judge the action required.

18. The Pension Fund Manager's response to this was that the policy needs to be fit for all members of both committee and board and should apply consistent treatment for potential conflicts from all members, rather than a differentiated approach for councillors and others. It is expected that all board and committee members would be able to determine the appropriate actions required in the case of a potential conflict, and that intervention from the chair and democratic services officer would only be required in exceptional circumstances.
19. The board is asked to confirm this proposed treatment.
20. Section 5.6 of the policy sets out the treatment of potential conflicts of interest with the Council as administering authority of the fund. Board members are asked to confirm these proposals.

Register of interests

21. Appendix 3 to this report sets out the proposed register of interests declaration that would be completed by all (non-councillor) members of the committee and board, as well as senior officers with responsibility for the operation of the fund.
22. The proposed register is based on the current declaration required for councillor members, which is more comprehensive and contains information about all declarable interests in investments, land and property on the Isle of Wight, as well as sponsorship and other appointments.
23. It is proposed that the existing Council register of interests for councillors who are members of both committee and board will be sufficient for the purpose of their roles within the fund.
24. For other board and committee members, the declaration has been streamlined to remove information about sponsorship, land, licenses and corporate tenancies.
25. A statement concerning membership of the pension fund has been included (although this cannot be a disqualifying interest, it should be declared and acknowledged), the statements about contracts and securities have both been amended to reflect the pension fund's business only.
26. Information about other positions held outside of the council has been retained.
27. Board members are asked to confirm the matters covered in the proposed register of interests.

Corporate Priorities and Strategic Context

28. There is nothing contained in this report which directly contributes to the priorities contained in the Isle of Wight Council [Corporate Plan 2021 – 2025](#). This policy supports the Council's core value "Being fair and transparent", making decisions based on data and evidence and in an open and accountable way.

Pension Fund Strategic Aims

29. The primary objective of the fund is to provide pension and lump sum benefits for members on their retirement and/or benefits on death, before or after retirement, for their dependents, in accordance with the Local Government Pension Scheme (LGPS) regulations and statutory provisions. The committee aims to operate the fund in such a manner that, in normal market conditions, all accrued benefits are fully covered by the value of the fund's assets and that an appropriate level of contributions is agreed by the employer to meet the cost of future benefits accruing.
30. The fund has also agreed the following objectives, which are supported by information in this report:
- (a) Ensure compliance with the LGPS Regulations, other relevant legislation and the Pensions Regulator's Codes of Practice.
 - (b) Act with integrity and be accountable to our stakeholders for our decisions, ensuring they are robust and evidence based.
 - (c) Understand and monitor risk and compliance.

Consultation

31. This policy has been drafted by the fund's governance consultants, Hymans Robertson LLP, in discussion with the Pension Fund Manager.
32. The proposed register of interest has been created in discussion with the council's Corporate Governance Manager.
33. The council's Director of Finance, Monitoring Officer and Strategic Manager Legal Services have been invited to comment on the policy and register of interests.
34. The consideration of this policy by the Local Pension Board forms part of the consultation process.

Financial / Budget Implications

35. The cost of drafting the policy by Hymans Robertson was consistent with prices quoted when the governance consultancy contract was awarded in 2018 and is consistent with other recently draft policies.
36. It is not anticipated that the implementation of the policy will incur any additional costs.

Legal Implications

37. Isle of Wight Council is the administering authority for the Isle of Wight Council Pension Fund. An administering authority is defined in the Local Government Pension Scheme Regulations 2013 as “a [local authority] required to maintain a pension fund under the local government pension scheme regulations”.
38. The Public Service Pensions Act 2013 gave greater responsibilities to the Pensions Regulator for the oversight of public service pension schemes, including the Local Government Pension Scheme.
39. The Pensions Regulator’s General Code, laid before Parliament on 10 January 2024, and expected to come into force on 27 March 2024, sets out the legal requirements for public service pension schemes in respect of the governance of those schemes, including the requirement to have processes in place for the identification and management of conflicts of interest.
40. Regulation 108 of the Local Government Pension Scheme Regulations 2013 (as amended) places duties on administering authorities to be satisfied that Local Pension Board members do not have conflicts of interest on appointment to, or whilst a member of, the Board.
41. The proposed policy complements the existing requirements in the council’s constitution for councillors, and explicitly extends the requirements for identifying, monitoring and managing conflicts of interest to non-elected members of the committee and local pension board.

Equality and Diversity

42. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
43. The implementation of this policy will have no impact on any of the protected characteristics.

Risk Management

44. It is the responsibility of the Isle of Wight Council, as administering authority for the Local Government Pension Scheme (LGPS) to ensure that the Isle of Wight Council Pension Fund is properly governed and administered in compliance with relevant regulations and other requirements.
45. Adopting and implementing this policy will ensure compliance with the requirements of the Pensions Regulator.

46. Should the council fail to ensure appropriate standards of governance and administration of the pension schemes for which it has responsibility, the Pensions Regulator has the powers to issue an improvement notice under section 13 of the Pensions Act 2004. This would have reputational issues for the council.
47. If the fund does not have appropriate procedures in place to identify, monitor and manage all potential conflicts of interest, there is a risk that decisions may be made which are not in the best interested of scheme members.

Appendices Attached

48. Appendix 1: Draft conflicts of interests policy v1.1
49. Appendix 2: Draft pension-specific register of interest v2
50. Appendix 3: extract from The Pensions Regulator's general code – conflicts of interest

Background Papers

51. The Pensions Regulator's General Code (laid in Parliament January 2024)
<https://www.thepensionsregulator.gov.uk/-/media/thepensionsregulator/files/import/pdf/general-code-laid-january-2024.ashx>
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