

# Cumbria Local Pension Board Members' Code of Conduct (Conflict of Interest) Policy

## 1. Code of Conduct

Cumbria LGPS Local Pension Board ("The Board") has adopted the following code dealing with the conduct that is expected of members of the Board ("members") when they are acting in that capacity as required by the Public Service Pensions Act 2013 ("the Act") to represent either members or employers of Cumbria Local Government Pension Scheme ('the Fund').

The Board has a statutory duty under the Act and subsequent legislation to promote and maintain high standards of conduct by members and the Code sets out the standards that the Board expects members to observe.

The Code is not intended to be an exhaustive list of all the obligations that are placed on members. It is the responsibility of individual members to comply with the provisions of the Code as well as such other legal obligations as may apply to them from time to time. Failure to do so may result in a sanction being applied by the Administering Authority as Scheme Manager.

There are references throughout the Policy to the statutory post of "Monitoring Officer". This role within Westmorland and Furness Council and therefore in relation to Cumbria LGPS is designated as Chief Legal and Monitoring Officer.

The code is intended to be consistent with the seven principles as attached to this code at Appendix C and applies whenever a person is acting in his/her capacity as a member of the Board member in the conduct of the Board's business or acting as a representative of the Board.

### 1.1 Behaviour

- 1.1.1 You must act solely in the interest of members and employers of the Fund and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend, a close associate, an employer or a business carried on by you.
- 1.1.2 You must not place yourself under a financial or other obligation to outside individuals or organisations that may influence you in the performance of your duties
- 1.1.3 You must not disclose any information given to you as a member in breach of any confidence.
- 1.1.4 You must not bring your office or the authority into disrepute.

- 1.1.5 You must treat others with respect and must promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their sex, race, age, religion, gender, sexual orientation or disability.
- 1.1.6 You must respect the impartiality and integrity of the statutory officers and other officers of the Council acting on behalf of the Fund.
- 1.1.7 When carrying out your public duties you must make all choices in the best interests of the Fund.
- 1.1.8 You are accountable for your decisions to the interested parties of the Fund and you must co-operate fully with whatever scrutiny is appropriate to your office.
- 1.1.9 You must be as open as possible about your decisions and actions and the decisions and actions of the authority and should be prepared to give reasons for those decisions and actions.
- 1.1.10 You must only use the resources of the Board in accordance with its requirements. In particular you must ensure, when using or authorising the use by others of the resources of the authority, that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 1.1.11 You must promote and support high standards of conduct when serving in your office.

## **2. Conflicts of Interest**

### **2.1 Registration of interests**

- 2.1.1 You must, within 28 days of taking office as a member, register with the Monitoring Officer the interests which fall within the categories set out in Appendices A (disclosable pecuniary interests) and B (other registerable interests).
- 2.1.2 You must, within 28 days of becoming aware of it, register with the Monitoring Officer any change to interests or new interests which fall within the categories set out in Appendices A and B.

### **2.2 Declaration of interests at meetings**

- 2.2.1 Where a matter arises at a meeting which relates to an interest in Appendix A ('disclosable pecuniary interests') you must declare the existence and nature of the interest even where it has been entered in the Board's register, unless the matter is a 'sensitive interest' as described by the Localism Act 2011. Unless a dispensation has been granted, you must then leave the meeting room and may not participate in any discussion, vote on, or discharge any function related

to the matter. Where the matter is a 'sensitive interest' you do not need to declare the nature of the interest but must still withdraw from the meeting without participating.

- 2.2.2 Where a matter arises at a meeting which relates to or affects an interest in Appendix B ('other registerable interests') you must declare the existence and nature of the interest unless it has been entered in the Board's Register of Interests.
- 2.2.3 Where a matter arises at a meeting which relates to or affects a financial interest of you, a friend, relative or close associate (and it is not a disclosable pecuniary interest or other registerable interest) you must declare the existence and nature of the interest. Where the matter is a 'sensitive interest' you do not need to declare the nature of the interest.
- 2.2.4 Where the matter relates to or affects the interest under paragraph 2.2.3 more than the majority of people in the area affected by the decision and a reasonable member of the public would think your view of the public interest would be so adversely affected, you must then leave the meeting room and may not vote on, or discharge any function related to the matter unless a dispensation has been granted. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Where the matter is a 'sensitive interest' you do not need to declare the nature of the interest.

**Appendix A – Disclosable Pecuniary Interests**

A pecuniary interest is a “disclosable pecuniary interest” in relation to a member (“M”) if it is of a description specified in this Schedule and either—

- (a) it is an interest of M's, or
- (b) it is an interest of—
  - (i) M's spouse or civil partner,
  - (ii) a person with whom M is living as husband and wife, or
  - (iii) a person with whom M is living as if they were civil partners,

And M is aware that that other person has the interest.

Each category of person referred to above is described as the ‘relevant person’.

The duties to register, disclose and not to participate in respect of any matter in which a member has a disclosable pecuniary interest are considered to be the same for this Board as those set out in Chapter 7 of the Localism Act 2011.

For the Board disclosable pecuniary interests are taken to be those as defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which are as follows –

<i>Interest</i>	<i>Prescribed description</i>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).
<b>Contracts</b>	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

<b>Land</b>	Any beneficial interest in land which is within the area of the relevant authority.
<b>Licences</b>	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
<b>Corporate tenancies</b>	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
<b>Securities</b>	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either—  (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose of identifying pecuniary interests –

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of the Board (including officers and advisers);

“relevant authority” means the Board of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## Appendix B – Other Registerable Interests

Other registerable interests are:

- a) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Board.
- b) any body of which you are a member or in a position of general control or management and which
  - i) exercises functions of a public nature
  - ii) is directed to charitable purposes, or
  - iii) is a body which includes as one of its principal purposes influencing public opinion or policy (this includes political parties or trade unions).
- c) any person from whom you have received a gift or hospitality with an estimated value of at least £100 (you must register any gifts and hospitality worth over £100 that you receive personally in connection with your official duties).

## Appendix C – the seven principles of public life

The principles of public life apply to anyone who is elected or works as a public office-holder. All public office-holders are both servants of the public and stewards of public services. The principles are:

<i>Selflessness</i>	Holders of public office should act solely in terms of the public interest.
<i>Integrity</i>	<p>Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work.</p> <p>They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends.</p> <p>They must declare and resolve any interests and relationships.</p>
<i>Objectivity</i>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<i>Accountability</i>	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
<i>Openness</i>	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
<i>Honesty</i>	Holders of public office should be truthful.
<i>Leadership</i>	Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.



## GUIDANCE FOR MEMBERS OF THE CUMBRIA LGPS LOCAL PENSION BOARD ON CODE OF CONDUCT (CONFLICTS OF INTEREST) POLICY

### INTRODUCTION

This document has been produced to offer guidance on the Code of Conduct for members. The Code applies to all members and officers and advisers of the Cumbria LGPS Local Pension Board ('the Board').

Ultimately, it is members' responsibility to take specific advice from the Monitoring Officer where appropriate and to make a decision as to the most suitable course of action.

### ***Code of Conduct***

The Code of Conduct ("the Code") is not intended to be an exhaustive list of all the obligations that are placed on members, but it is the responsibility of individual members to comply with the provisions of the Code as well as such other legal obligations as may apply to them from time to time.

The Code is intended to be consistent with the seven principles of public life as attached to the Code which define the standards that members should uphold. A failure to act in accordance with these general principles may in itself amount to a breach of the Code of Conduct. For example, by placing yourself in situations where your honesty and integrity may be questioned, your conduct may be conduct which could "bring your office or the authority into disrepute".

### ***When does the Code apply to you?***

The Code applies to you whenever you act in your official capacity as a member of the Board.

For the purposes of the Code, a "meeting" is a meeting of the Board.

## GENERAL OBLIGATIONS UNDER THE CODE

- 1.1. You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend, a close associate, an employer or business carried on by you.**

For example, your behaviour would be improper if you sought to further your private interests or that of somebody close to you through your position as a member.

- 1.2 You must not place yourself under a financial or other obligation to outside individuals or organisations that may influence you in the performance of your official duties.**

It would not be appropriate to accept favours, gifts or hospitality from someone that may, at a later date, require something from the Board that you are in a position to influence. For example, you may be offered a discount by a business in the area which subsequently applies for planning permission and/or a licence. You may be on the relevant committee dealing with the application and, therefore, be in a difficult position.

- 1.3 You must not disclose any information given to you as a member in breach of any confidence**

As a general rule, you must not disclose confidential information, or information which you believe to be of a confidential nature, as doing so could be prejudicial to effective decision-making and could damage the reputation of the authority in the eyes of those who wish to do business with it as being a place which cannot be trusted to respect confidential or commercially sensitive information.

The courts have, however, defined exceptional circumstances where it may be in the public interest to disclose confidential information if you believe it is in the public interest to do so. However, these circumstances are very rare and you should raise your concerns with the Monitoring Officer in the first place before you consider disclosing confidential information. These exceptional circumstances are:

- You have the consent of the person authorised to give it.
- You are required by law to do so.
- The disclosure is made to a third party for the purposes of obtaining professional advice (for example, your lawyer or other professional adviser) provided that person agrees not to disclose the information to any other person.

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- The disclosure is in the public interest. This is only justified in limited circumstances.

### ***The public interest***

In considering whether disclosure would be in the public interest you should consider the following points:

- Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.
- Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
- The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media or social media.
- The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
- The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.
- The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing, or is likely to reoccur.
- Whether the disclosure involves the authority failing in a duty of confidence owed to another person.

Disclosures which have been ruled serious enough and in the public interest to override the duty of confidentiality have related to the following matters, or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:

- (a) A criminal offence has been or is being committed.
- (b) The authority or some other person has failed or is failing to comply with any legal obligation to which they are subject.
- (c) A miscarriage of justice has occurred.
- (d) The health or safety of any individual is in danger.
- (e) The environment is likely to be damaged.

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- (f) That information tending to show any matter falling within (a) to (e) is deliberately concealed.

Any disclosure must also be made in good faith. This condition will not be met if you act with an ulterior motive, for example, to achieve a party political advantage or to settle a score with a political opponent rather than simply out of public interest.

Finally you should ensure that you have complied with all reasonable requirements of the authority. This means that before making any disclosure you must comply with the authority's policies or protocols on matters such as whistle-blowing and confidential information. You must therefore first raise your concerns through the appropriate channels set out in such policies or protocols.

In summary, to decide whether the disclosure is reasonable and in the public interest, you will need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors which may justify its disclosure despite these potential consequences.

In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.

### **1.4 You must not bring your office or the authority into disrepute**

As a member, your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on your office or the authority. Dishonest and deceitful behaviour or threatening or violent behaviour in your role as a member may bring the authority into disrepute

### **1.5 You must treat others with respect and must promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their sex, race, age, religion, gender, sexual orientation or disability.**

You must treat others with respect. In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the politics and actions of their opponents. Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to failing to treat someone with respect.

Whilst ideas and policies may be robustly criticised, however, individuals should not be subject to unreasonable or excessive personal attacks. This particularly applies to dealing with the public and officers. Chairs of

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meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

Whilst there may be unreasonable demands on members, members should, as far as possible, treat people courteously and with consideration. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

In particular, you must not do anything which may cause the authority to breach any equality laws. You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or do anything which hinders the authority's fulfilment of its positive duties under equality laws. Such conduct may cause the authority to breach the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code of Conduct.

### **1.6 You must respect the impartiality and integrity of the Board's statutory officers and its other employees.**

You should respect the impartiality and integrity of the Board's statutory officers and its other employees.

You should not approach or pressure anyone who works for, or on behalf of, the Board to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **1.7 When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits on merit.**

As an member of the Board you are responsible for administering resources on behalf of the best interests of the Fund, specifically the membership you have been appointed to represent. You should administer these resources fairly and in accordance with the law. It is inappropriate for the Board's resources or powers to be used in such a way that the Board and its members be left open to accusations that inappropriate influence played a part, for example, "it's not what you know, it's who you know!"

### **1.8 You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.**

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This requirement is linked to carrying out all duties in a fair and transparent manner. Members are able to be held to account for their actions and, this being the case, you must be open to and cooperate with any legitimate scrutiny that is to be applied.

### **1.9 You must be as open as possible about your decisions and actions and the decisions and actions of the authority and should be prepared to give reasons for those decisions and actions.**

Members should have good reasons for the decisions they make and should not make decisions which are based purely on self-interest or prejudice. The public we serve has the right to have decisions which affect their day-to-day lives taken for proper reasons and need to be able to understand why we have taken a course of action and, if necessary, exercise any right of challenge that is open to them.

- 1.10 You must only use the resources of the Board in accordance with its requirements. In particular you must ensure, when using or authorising the use by others of the resources of the authority, that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.**

Where the authority provides you with resources (for example telephone, computer and other IT facilities, transport or support from authority employees), you must only use these resources or employees for carrying out your local authority business and any other activity which the authority has authorised you to use them for.

You must be familiar with the rules applying to the use of these resources made by the authority. Failure to comply with the Board's rules is likely to amount to a breach of the code.

If you authorise someone (for example a member of your family) to use the authority's resources, you must take care to ensure that this is allowed by the Board's rules.

- 1.11 You must promote and support high standards of conduct when serving in your office.**

You have a duty to promote and support high standards of conduct and to behave in a way which is consistent with the seven general principles of public life set out in Appendix C of the Code.

## INTERESTS

### *Registration of interests*

You need to register your interests so that the public, authority staff and fellow members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and helps to ensure transparency of decision-making.

The register also protects you. You are responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other members, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local government is maintained

You must notify the Monitoring Officer of any relevant interests to be included in the Board's register of interests. A copy of the register will be available for public inspection and will be published on the Administering Authority's website.

You have two types of registerable interests -

- (a) Disclosable Pecuniary Interests; and
- (b) Other registerable interests (including gifts and hospitality)

**(a) *Disclosable Pecuniary Interests***

These are interests (set out in Appendix A of the Code) which must be notified to the Board's Monitoring Officer within 28 days beginning with the day on which you become a member of the Board in accordance with the statutory requirements of the Localism Act 2011. These are enforced by criminal sanction, and failure to register or declare them is a criminal offence.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) of the following descriptions -

- (a) Details of any employment, office, trade, profession or vocation carried on for profit or gain.
- (b) Details of any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (c) Details of any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.
- (d) Details of any beneficial interest in land which is within the area of the relevant authority.
- (e) Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
- (f) Details of any tenancy where (to your knowledge) the landlord is the relevant authority; and the tenant is a body in which the relevant person has a beneficial interest.
- (g) Details of any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the relevant authority; and either the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or if that share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the



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relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For the purposes of the above “relevant authority” means the Board of which you are a member, and “relevant period” means the period of 12 months ending with the day on which you notify the Monitoring Officer of your disclosable pecuniary interest.

### **(b) Other Registerable Interests**

In addition to any disclosable pecuniary interests, you must, within 28 days of your election or appointment to office notify the Monitoring Officer in writing of the details of your interests within the following categories (set out in Appendix B of the Code), which the Board has decided must be included in the register of interests:

- (a) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Board;
- (b) any body of which you are a member or in a position of general control or management and which –
  - (i) exercises functions of a public nature,
  - (ii) is directed to charitable purposes, or
  - (iii) is a body which includes as one of its principal purposes influencing public opinion or policy (this includes political parties or trade unions);
- (c) any persons from whom you have received a gift or hospitality with an estimated value of at least £100 that you receive personally in connection with your official duties.

### ***Gifts and Hospitality***

You must register the gift or hospitality and its source within 28 days of receiving it.

You should ask yourself would I have been given this if I were not on the Board? If you are in doubt as to the motive behind a gift or hospitality, we recommend that you register it or speak to the Monitoring Officer.

You do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you should always register a gift or hospitality if it could be perceived as something given to you because of your position or if the authority requires you to.

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You may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts you received from the same source over a short period that add up to £100 or more should be registered.

The general rule is, if in doubt as to the value of a gift or hospitality, you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life.

### ***Changes to Registerable Interests***

You must, within 28 days of becoming aware of any new registerable interest or change to any interest already registered notify the Monitoring Officer of the details of that new interest or change.

### ***Sensitive interests***

Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, the Monitoring Officer will make a note of the interest but will not enter it into the register.

A sensitive interest may include any sensitive employment (such as certain scientific research or the Special Forces) or other interests that are likely to create serious risk of violence or intimidation against you or someone who lives with you.

You should provide this information to your Monitoring Officer and explain your concerns regarding the disclosure of the sensitive information, including why it is likely to create a serious risk that you or a person who lives with you will be subjected to violence or intimidation. You do not need to include this information in your register of interests if your Monitoring Officer agrees, but you need to disclose at meetings the fact that you have a disclosable pecuniary interest in the matter concerned.

### ***Definitions***

Most of the wording above is taken from statute and therefore may not be easy to understand. The following section explains what some of the categories of registerable interests mean in practice:

If you need further information or specific advice, please contact your Monitoring Officer.

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<b>“the Act”</b>	means the <a href="#">Localism Act 2011</a> ;
<b>“body in which the relevant person has a beneficial interest”</b>	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
<b>“director”</b>	includes a member of the committee of management of an industrial and provident society;
<b>“land”</b>	excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
<b>“M”</b>	means a member of a relevant authority;
<b>“member”</b>	includes a co-opted member;
<b>“relevant authority”</b>	means the Board of which M is a member;
<b>“relevant period”</b>	means the period of 12 months ending with the day on which M gives a notification for the purposes of <a href="#">section 30(1)</a> or <a href="#">section 31(7)</a> , as the case may be, of the Act;
<b>“relevant person”</b>	<p>means -</p> <ul style="list-style-type: none"> <li>(i) M,</li> <li>(ii) M's spouse or civil partner,</li> <li>(iii) a person with whom M is living as husband and wife, or</li> <li>(iv) a person with whom M is living as if they were civil partners.</li> </ul>
<b>“securities”</b>	means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the <a href="#">Financial Services and Markets Act 2000</a> and other securities of any description, other than money deposited with a building society.

<p><b>body exercising functions of a public nature</b></p>	<p>Although it is not possible to produce a definitive list of such bodies, here are some criteria to consider when deciding whether or not a body meets that definition -</p> <ul style="list-style-type: none"> <li>• Does that body carry out a public service?</li> <li>• Is the body taking the place of local or central government in carrying out the function?</li> <li>• Is the body (including one outsourced in the private sector) exercising a function delegated to it by a public authority?</li> <li>• Is the function exercised under legislation or according to some statutory power?</li> <li>• Can the body be judicially reviewed?</li> </ul> <p>Unless you answer “yes” to one of the above questions, it is unlikely that the body in your case is exercising functions of a public nature.</p> <p>Examples of bodies included in this definition: government agencies, other local authorities, public health bodies, authority-owned companies exercising public functions, arms-length management organisations carrying out housing functions on behalf of the authority, school governing bodies.</p>
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### DECLARATIONS OF INTEREST

As well as the requirement to register interests, there will be times when you need to declare interests at meetings. This section explains when you will need to declare an interest and what steps you will need to take.

#### **(a) *Disclosable Pecuniary Interests***

##### **Introduction**

Unless you have been granted a dispensation, where a matter arises at a meeting which relates to a disclosable pecuniary interest then you must declare that interest to the meeting and leave the room whilst any discussion or vote takes place.

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This is in the interests of transparency so that it is known and understood by all and is a matter of public record. If a declaration is not made, other than through the register, it would not necessarily be apparent to anyone who is present at the meeting why a particular member is not participating or voting in any matter.

If a dispensation has been granted to you in relation to a disclosable pecuniary interest then, subject to the terms of the dispensation, you may be relieved from the above restrictions but will still be required to declare the interest to the meeting.

### **Dispensations**

The Monitoring Officer may grant you a dispensation, but only in limited circumstances, to enable you to participate and/or vote on a matter in which you have a disclosable pecuniary interest. These circumstances are where –

- It is considered that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business.
- That, without the dispensation, the equal representation of requirements would be so upset as to alter the likely outcome of any vote relating to the business.
- That the Board considers that the dispensation is in the interests of the interested parties being represented.
- That the Board considers that it is otherwise appropriate to grant a dispensation.

### **Offences**

Members should be aware that it is a serious offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest

- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

### **(b) Other interests**

#### ***Introduction***

Disclosable pecuniary interests are mandatory for members of the Board. In the interests of transparency, there are other categories included in your code. These are both other categories of interests that you need to register, such as membership of outside bodies, but also interests which are not directly yours or about you or your partner but clearly may influence you - for example, interests of other family members or close associates. In these cases of interests of friends and family you don't need to put them on the register but you will need to declare them if any business of the Board relates to or affects them.

In most cases you would simply declare the interest but then carry on and participate as normal. However, in certain circumstances the interest would be so affected that you should not participate in the meeting.

#### ***What do I need to do?***

If you have an interest in an item of business as a result of the matter affecting the financial position of yourself, a relative, friend or a close associate and it is not a disclosable pecuniary interest then you need to declare that interest.

In most circumstances, you can still participate in the meeting. However, if you or those with an interest close to you would:

- a) be affected by the outcome of the decision more than it would affect the majority of other people in the relevant area affected; and
- b) a reasonable member of the public would therefore think your view of the public interest would be adversely affected

you must not take part in the decision.

In that case, you are allowed to speak before withdrawing if the public also has the right to speak. This is to ensure that you have the same rights to advocate for a decision on behalf of somebody close to you as any ordinary member of the public would have but you are not allowed to vote on the matter, nor are you allowed to take part in confidential discussions, as this would be giving the person affected an unfair advantage over other members of the public.

Clearly you cannot be expected to declare something of which you are unaware. However you should not ignore the existence of interests which,

from the point of view of a reasonable and objective observer, you should have been aware.

### ***Definitions***

#### **“affecting the financial position”**

An interest can affect you, your family or close personal associates positively and negatively. So if you or they have the potential either to gain or lose from a matter under consideration, an interest would need to be declared.

#### **‘a friend, relative or close associate’**

A relative should be given wide meaning. It includes a partner (someone you are married to, your civil partner, or someone you live with in a similar capacity), a parent, parent-in-law, a son or daughter, a stepson, or stepdaughter, the child of a partner, a brother or sister of yourself or your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece and the partners of any of these people.

A friend or close associate is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.

#### **‘a reasonable member of the public’**

If a reasonable member of the public with knowledge of all the relevant facts would think that your judgement of the interest of the Fund would be prejudiced, then you should not be taking part in the decision.

You must ask yourself whether a member of the public – if he or she knew all the relevant facts – would think that your interest was so significant that it would be likely to prejudice your judgement. In other words, the interest must be perceived as likely to harm or impair your ability to judge the interest of the Fund.

Some general principles must be remembered when applying this test. You should clearly act in the interest of the Fund and not in the interests of family or close associates. You are a custodian of the public purse and the public interest and your behaviour and decisions should reflect this responsibility.

### ***Bias and predetermination***

Although these concepts are not mentioned specifically in the Code of Conduct, members do need to be aware of them as the Board may be challenged if a decision has not been taken properly.

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Having comprehensive rules for registration and declaration of interests which are adhered to will protect an authority from this risk but do not cover all the areas which may affect the making of a decision.

The rules against bias say that there are three distinct elements. The first seeks accuracy in public decision-making and the second seeks the absence of prejudice or partiality on the part of you as the decision-maker. An accurate decision is more likely to be achieved by a decision-maker who is in fact impartial or disinterested in the outcome of the decision and who puts aside any personal prejudices. Merely being a member / representative employer of the Fund does not disqualify you as an impartial decision-maker.

The third requirement is for public confidence in the decision-making process. Even though the decision-maker may in fact be scrupulously impartial, the appearance of bias can itself call into question the legitimacy of the decision-making process. In general, the rule against bias looks to the appearance or risk of bias rather than bias in fact, in order to ensure that 'justice should not only be done, but should manifestly and undoubtedly be seen to be done.

To varying degrees, these "requirements" might be seen to provide the rationales behind what are generally taken to be three separate rules against bias: "automatic" (or "presumed") bias, "actual" bias and "appearance" bias.

The rationale behind "automatic" or "presumed" bias appears to be that in certain situations (such as if you have a pecuniary or proprietary interest in the outcome of the proceedings) then it must be presumed that you are incapable of impartiality. Since a motive for bias is thought to be so obvious in such cases, the decisions are not allowed to stand even though no investigation is made into whether the decision-maker was biased *in fact*. **In these circumstances you should not participate in a decision.** That is why there are rules in the Code of Conduct setting out when you should and should not participate where a clear interest arises.

However, there are circumstances beyond the Code rules which cover the other areas of bias – where a decision is taken with a closed mind or the appearance of a closed mind.

The Localism Act 2011 has enshrined the rules relating to pre-disposition and predetermination into statute. In essence you are not taken to have had, or appeared to have had, a closed mind when making a decision just because you have previously done anything that directly or in-directly indicated what view you may take in relation to a matter and that matter was relevant to the decision.

So, you are entitled to have a pre-disposition one way or another as long as you have not pre-determined the outcome. You are able to express an opinion providing that you come to the relevant meeting with an open mind, able to take account of all of the evidence and make your decision on the day. Provided that you can demonstrate that you have an open mind and



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have listened to both sides of any argument fairly and considered all the evidence, you will not be seen as having predetermined an issue.

### **Examples of Interests Creating Potential Conflicts for members of the Cumbria LGPS Local Pension Board**

The following examples of potential conflicts of interest are provided for illustrative purposes only and are not intended to be an exhaustive list.

*Members of the Pension Board may be officers of the administering authority or another employer organisation within the Fund and will potentially face conflicting priorities by virtue of these two roles.*

#### **Example 1**

Pension Board members may be required to scrutinise a decision which will commit the Fund to injecting additional resources into improving administration and efficiency which will involve greater costs falling on employer organisations. Simultaneously, they may face pressure from their employing organisation to challenge existing budgets and to reduce expenditure on pension administration matters.

#### **Example 2**

The Local Pension Board might review a decision by the Pension Committee to levy an additional charge (under the Regulations) on a group of employers whose poor performance in carrying out their statutory functions in respect of the LGPS has caused the Administering Authority additional costs. Any Board member employed by one of the affected employer organisations would need to declare their interest in order for a potential conflict to be identified and managed so as to prevent any actual conflict of interests from arising. A Board member might be employed by (or have some other relevant connection with) a firm providing administrative or other services to the Fund.

#### **Example 3**

Where the Board is due to discuss or scrutinise the Committees' monitoring of the performance of a supplier of administrative or other services in which a Board Member has an interest they will face a potential conflict of interests. The Member will need to declare their interest in order for a potential conflict to be identified and managed so as to prevent any actual conflict of interests from arising. A Board member may have financial or other interests which give the appearance of a conflict but which, by virtue of their nature or scale, are not ultimately material to the issue under consideration by the Board.

#### **Example 4**

A Board member holds shares in a company that provides services to the Fund. The shares are valued at a few hundred pounds and the company's value is many tens of millions. The Pension Board is reviewing the governance of the performance of the provider and any decision to extend the value and term of the contract. In this case the Board may consider that on grounds of materiality, no conflict of interest exists. The Local Pension Board is not responsible for the decision to award the contract and the impact of the contract extension will have no effect on the company's share price. The Board member in question should, however, still declare their interest and the minutes of the meeting should record

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the decision that the Board judged the interest insufficiently material to require the member to be excluded from discussing or voting on the item of business.