



BCPP Joint Committee

Date of Meeting: 10th July 2018

Report Title: Joint Committee Membership

Report Sponsor: Ian Bainbridge

1.0 Executive Summary:

- 1.1 The issue of employer and scheme representation on the Joint Committee has previously been considered and not taken forward having had due regard to the guidance available at the time.
- 1.2 The Scheme Advisory Board has recently reviewed their guidance and has concluded that they would expect that employers and member representatives are involved by Scheme Managers (Administering Authorities) in assisting with the assurance of transparent reporting from pools and ensuring the effective implementation of strategies by pools. Such involvement should include the consideration of provision of direct representation on oversight structures.
- 1.3 If a decision is taken to offer either employer or scheme member representation or both on the Joint Committee it is considered appropriate to seek nominations and elections from the Local Pension Boards at each fund.
- 1.4 This guidance is not mandatory. The Joint Committee has the option of not offering employers or scheme members representation on the Joint Committee. If this is the case it is considered appropriate to adopt the “explain” approach and that clear reasons be set out why this is not considered appropriate.
- 1.5 The Constitution of the Joint Committee (as set out in the Inter Authority Agreement) allows for co-opted members on the Joint Committee in a non-voting capacity. This could include employer or scheme member representatives or both.

2.0 Recommendations:

- 2.1 The Joint Committee is recommended to consider, in the light of the revised Scheme Advisory Board guidance, whether employer representatives or scheme member representatives should be co-opted onto the Joint Committee in a non-voting capacity.
- 2.2 If a decision is taken to co-opt employer and/or scheme member representatives onto the Joint Committee, it is proposed that the representatives should be

sourced from the local boards and Officers will present a report to the next meeting of the Joint Committee setting out the process to be adopted and the terms of the appointment. To assist with this the Joint Committee's views on the issues set out in paragraph 7.9 would be welcomed.

- 2.3 If a decision is taken not to provide for employer and/or scheme member representation onto the Joint Committee, clear reasons should be provided for adopting this approach and this should be reported to the Local Pension Boards at each fund.

3.0 Governance Arrangements:

- 3.1 The governance arrangements for Border to Coast have been covered in the previous report to the Joint Committee on the Governance Charter. This sets out the roles of the Administering Authorities as both investors and shareholders.
- 3.2 Whilst not seeking to duplicate the governance arrangements in this report it is important to understand the role of the governance structures of the individual Administering Authorities, the Joint Committee and Border to Coast.
- 3.3 The Administering Authorities, acting as Scheme Manager for each Pension Fund acting through their Pensions Committee will retain responsibility for asset allocation, control over the investment strategy, the funding strategy and pensions administration.
- 3.4 Each Local Pension Board will continue to fulfil its statutory role in assisting the appropriate Scheme Manager in ensuring compliance with regulations and the effective and efficient governance and administration of the LGPS.
- 3.5 The Joint Committee has been established to provide a forum for the Administering Authorities as investors and clients of Border to Coast. The agreed terms of reference for the Joint Committee note that the primary purpose of the Joint Committee is to exercise oversight over investment performance of the collective investment vehicles of Border to Coast. It was also recognised that the role of the Joint Committee would evolve as Border to Coast became operational.
- 3.6 The Administering Authorities are also the owners of Border to Coast and in this capacity exert control through a Shareholder Agreement and voting rights across a range of reserved matters. Each Administering Authority owns a single voting share.
- 3.7 Border to Coast is regulated by the Financial Conduct Authority and has a Board of Directors, which is collectively responsible for directing and supervising the Company's affairs.
- 3.8 It has been consistently asserted that each Administering Authority should have an equal voice within the pool structures. The principle of 'one fund one vote' is a key tenet of the pooling arrangement that has been established.

4.0 Constitution of the Joint Committee:

- 4.1 When considering membership of the Joint Committee it is important to consider this in the light of the Constitution of the Joint Committee as set out in the Inter Authority Agreement.

- 4.2 The Constitution states that the “Joint Committee shall consist of one elected member appointed by each Authority” and that “each Member of the Joint Committee shall have one vote”.
- 4.3 The Constitution also states that “The Joint Committee may co-opt such other persons as it sees fit to be members of the Joint Committee but without power to vote.”

5.0 Previous Consideration of Co-Opted Members on Joint Committee

5.1 Members will be aware that prior to the formal establishment of the Joint Committee a more informal group called the Member Steering Group (MSG) existed.

5.2 The Member Steering Group (MSG) first discussed the role of non-voting advisors and employee representatives in the context of membership of the Joint Committee at a meeting on 24 June 2016, held before the final submission to government on 15 July 2016. In general terms it was agreed by the MSG that:

“Only the 12 Member Funds with an equal shareholding in BCPP would have a vote on the Joint Committee, but that it could appoint non-voting advisors where it was considered to be appropriate.”

5.3 Such voting rights would be consistent with the establishment of a Joint Committee under local government law.

5.4 At the same meeting on 24 June 2016, there was a discussion about the possibility of a Trades Union representative being invited to a place on the Joint Committee. This is minuted as follows:

“There was a detailed discussion as to whether Trades Union representatives should be offered a non-voting position on the Joint Committee. Following an indicative vote, it was agreed that consideration be given to amending the consultation response to indicate that future consideration would be given to providing a non-voting position to a member representative on the Joint Committee when the Committee is formally constituted. Approval of the amended wording would be for each Fund to agree.”

5.5 Based on this, the submission to Government of 15 July 2016 (page 14) included the following comment:

“Throughout the project implementation stage to formally establish and constitute the Joint Committee, consideration will be given to the creation of an observer post for a Scheme Member representative from the partner funds’ membership. Due to the core principle of each shareholder having an equal vote, the status of this seat would be as a non-voting observer.”

5.6 The issue of co-opting members on to the Joint Committee was also subject of a further report to Joint Committee in November 2016. The following was agreed;

“Any additional attendees of the Joint Committee beyond the 12 voting Funds will have observer status with the ability to participate in discussions but not able to vote.

There will not be separate scheme employer representation on the Joint Committee.

The Joint Committee will not have advisors as permanent additional members.

There would be no Joint Committee members beyond the 12, that other individuals (e.g. advisers) may be invited to attend meetings from time to time, and that this approach would be revisited if/when the Scheme Advisory Board issues guidance.”

- 5.7 The overall conclusion was that there would be no additional co-opted members on the Joint Committee, but this approach would be revisited if/when the Scheme Advisory Board issued guidance. Whilst most of the focus on the earlier discussions was on scheme member representation, the issue of employer representation was also discussed.

6.0 Guidance on Membership of the Joint Committee

- 6.1 In 2016 the Chartered Institute of Public Finance and Accountancy issued guidance entitled “investment pooling governance principles”.

- 6.2 Whilst this guidance recognised that each “pool” would adopt different approaches to pooling and establish differing governance arrangements, it was envisaged that each pool would establish some form of “oversight committee” which in most cases would be a joint committee consisting of at least one member from each administering authority. The guidance also suggested that a joint committee might co-opt members or observers such as

- Scheme member representatives
- Employer representatives
- Advisors – for example, an independent advisor or investment consultant representing the administering authorities collectively.

- 6.3 This guidance from CIPFA was available at the time this issue was last considered at the Joint Committee in November 2016 and was included in the report to that meeting.

- 6.4 However, since the November 2016 meeting the Scheme Advisory Board has issued guidance.

- 6.5 On 23rd March 2017 the Scheme Advisory Board (SAB) made the following statement on its website.

Board Statement on Pool Governance following the meeting of the Board on 6th March 2017, the following statement was agreed:

"The Board recognises that it is for scheme managers within each pool to develop appropriate governance to assure all stakeholders of the transparent and effective implementation of strategy. In this respect the Board notes the comments made by the Local Government minister Marcus Jones MP on this matter in the Westminster Hall debate on 24th October 2016.

The board recognises that strategic decisions on asset allocations and responsible investment will remain at the local level and therefore the involvement via local pension boards of those employers beyond the scheme manager along with member representatives in those areas would continue.

However the Board also encourages scheme managers to involve those same employers and member representatives in assisting with the assurance of transparent reporting from pools and ensuring the effective implementation of strategies by pools. Such involvement should include the consideration of provision of direct representation on oversight structures."

6.6 This guidance has recently been reviewed and updated

At its meeting on the 16th February 2018, the Board agreed to review the wording of the policy statement on pool governance published here on the 23rd March 2017. The following statement was subsequently agreed (revised text shown in bold) –

"The Board recognises that it is for scheme managers within each pool to develop appropriate governance to assure all stakeholders of the transparent and effective implementation of strategy. In this respect the Board notes the comments made by the then Local Government minister Marcus Jones MP on this matter in the Westminster Hall debate on 24th October 2016

The Board recognises that strategic decisions on asset allocations and responsible investment will remain at the local level and therefore the involvement via local pension boards of those employers beyond the scheme manager along with member representatives in those areas would continue.

*However the Board **would expect that** scheme managers involve those same employers and member representatives in assisting with the assurance of transparent reporting from pools and ensuring the effective implementation of strategies by pools. Such involvement should include the consideration of provision of direct representation on oversight structures. **In line with the UK Corporate Governance Code principle of 'comply or explain', any pool making a decision to exclude member representatives from their formal oversight structures should publish this decision and formally report the reasons to the local pension boards which the pool serves."***

6.7 In the light of this revised guidance and the fact that the Joint Committee agreed to revisit the approach to co-opting additional members to the Joint Committee, it is considered appropriate to bring this issue back to the Joint Committee for consideration.

6.8 Whilst the focus has largely been on the scheme member representation, it should be noted that the advice from the SAB also covers employers, other than the

Administering Authority. Interestingly however, the comply or explain part of the guidance only refers to an exclusion of member representatives and not employer representatives.

- 6.9 The original and the revised guidance from the SAB does not however, cover the issue of other advisors such as an independent investment advisor. This report therefore, does not seek to revisit the Joint Committee decision not to have a permanent advisor appointed in this capacity. This issue can be considered again at a later date should it be considered appropriate.
- 6.10 Whilst the guidance has been firmed up from the original version it is not mandatory. Should the Joint Committee determine that it does not want to offer employers or scheme members representation on the Joint Committee it is considered appropriate that the “explain” approach should be adopted and clear reasons set out why this is not considered appropriate. Whilst the guidance does not specifically suggest the “explain” approach relates to employer representatives, it could be considered to be good practice to do so.

7.0 Potential Process for Appointing Employer and/or Scheme Member Representatives

- 7.1 Should the Joint Committee decide to offer a non-voting place on the Committee for scheme members and other employers, consideration would need to be given as to what process should be adopted to identify suitable candidates.
- 7.2 It is worth noting that there are likely to be practical difficulties in sourcing suitable co-opted members from a group of funds spread over a wide and diverse geographical area, with a diverse range of participating employers.
- 7.3 The SAB guidance notes that it recognises the continuing involvement of ‘employers beyond the scheme manager along with member representatives’ in local level decisions on asset allocations and responsible investment via their involvement in local pension boards.
- 7.4 The guidance goes on to note that the SAB expects that ‘those same employers and member representatives’ are involved by scheme managers ‘in assisting with the assurance of transparent reporting from pools and ensuring the effective implementation of strategies by pools. Such involvement should include the consideration of provision of direct representation on oversight structures.
- 7.5 Taking this into account it is considered appropriate to seek nominations for these roles from existing Local Board representatives at the 12 Administering Authorities. Selecting members from the Local Boards means that they should have a good level of knowledge and understanding of the LGPS and the pooling agenda from their involvement in the Local Board. Furthermore, it would be in keeping with the wording of the SAB guidance – specifically the reference to ‘those same employers and member representatives’.
- 7.6 To focus the process through the Local Boards should significantly simplify the election process. The Chairs of each Local Pension Board could be asked to vote on behalf of each Board.
- 7.7 Due to the current size of the existing Joint Committee, which at 12 is quite large it

is suggested that the nominations for employer and scheme member representatives should be limited to one or two each.

7.8 It may be entirely reasonable the Joint Committee decides to allow scheme member representation and not further employer representation as it is not clear that there is any demand or appetite from employers for this. It may even be that if a position is offered it may not be taken up. To offer the place would provide equity between the employer and scheme member position. It is worth reiterating that, in line with the SAB guidance, any employer representation would have to come from an employer other than one of the 12 Administering Authorities.

7.9 If co-opted membership is to be offered to employer and/or scheme members it is proposed that the Officers should further develop the selection process, including some terms of the appointment which can be presented to the next meeting of the Joint Committee. To assist with this the Joint Committee's view would be welcomed on the issues set out below. This will allow the Officers to develop the selection process.

- The term of the appointment. Should this be on an annual basis or for a longer period to ensure continuity?
- Whether to align the terms of appointment to the Council's municipal year.
- Whether substitutes should be allowed if the main representative is not available.
- If more than one co-opted member is allowed, whether there should a restriction of no more than one from any one fund.

8.0 The Position at other Pools

8.1 This is an issue facing all of the pools. To assist the Joint Committee the table below shows the approach adopted by the other pools.

Pool	Position on employer and scheme member representation
Brunel	<p>Brunel operates an Oversight Board rather than a Joint Committee. This is because the Environment Agency would be excluded from any Joint Committee arrangement. It has no decision making powers but gives a steer to the Company and individual funds.</p> <p>There are two member representatives on the Oversight Board and they operate without any voting powers.</p> <p>There are no other employer representatives on the Oversight Board.</p>
Access	<p>A Joint Committee has been established. No employer or scheme member representation is in place. This issue is however, likely to be reviewed at a future meeting in the light of the updated Scheme Advisory Board guidance.</p>

Central	<p>A Joint Committee has been established and is in operation. A decision has recently been taken to have one trade union representative on the Joint Committee. It is understood that nominations will be sought from across the funds in the pool. The issue of voting rights is still to be determined.</p> <p>An employer representative is not being considered.</p>
Local Pension Partnership (LPP)	<p>LPP don't have a Joint Committee as LPFA can't be on a Joint Committee. Instead they have a corporate board with shareholder representatives on it. There is no employer or scheme member representation.</p>
London CIV	<p>LCIV are in the process of restructuring their governance arrangements following the recent review. The proposal is to set up a consultative shareholder committee to provide ongoing advice to the Company.</p> <p>The consultative committee will consist of eight Councillors, four Section 151 Officers plus the LCIV chair. They will be inviting a trade union representative as an observer.</p> <p>Oversight on investment is being provided via the equivalent of the OOG and by pension committees directly.</p>
Northern	<p>Northern has not yet formalised its Joint Committee, but the intention is to have three representatives from each fund, one of which will be a trade union representative. The union representative will have voting rights. There is no intention to have other employer representatives involved in the Joint Committee.</p>
Wales	<p>There is a Joint Committee. There is no employer or scheme member representation. It's likely that this will be reviewed following the latest SAB guidance.</p>

8.2 As can be seen from the table above four of the seven other pools either have or are intending to have scheme member representation (some have stated explicitly trades union representation) on their oversight committees. Only the Northern Pool will be offering voting rights. Of the three others, two have indicated that they will be reviewing their position in the light of the latest Scheme Advisory Board guidance.

8.3 None of the pools has any scheme employer representatives other than the representatives from the administering authorities.

9.0 Conclusion

9.1 The Constitution of the Joint Committee allows for co-opted members on the Joint Committee in a non-voting capacity. This could be employer or scheme member representatives or both.

- 9.2 The issue of employer and scheme representation on the Joint Committee has previously been considered and not taken forward.
- 9.3 The SAB has recently reviewed their guidance and has concluded that they would expect that employers and member representatives are involved by Scheme Managers in assisting with the assurance of transparent reporting from pools and ensuring the effective implementation of strategies by pools. Such involvement should include the consideration of provision of direct representation on oversight structures.
- 9.4 This guidance is not mandatory. The Joint Committee has the option of not offering employers or scheme members representation on the Joint Committee. If this is the case it is considered appropriate that the “explain” approach should be adopted and clear reasons set out why this is not considered appropriate.
- 9.5 If a decision is taken to offer either employer or scheme member representation or both on the Joint Committee it is considered appropriate to seek nominations and elections from the Local Pension Board at each fund.
- 9.6 The situation at other pools is mixed with four of the seven having some form of scheme member representation and two of the others noting that they will be revisiting this issue in the light of the latest guidance. None of the other pools have offered other employer representation.

10.0 Recommendations

- 10.1 The Joint Committee is recommended to consider, in the light of the revised Scheme Advisory Board guidance, whether employer representatives or scheme member representatives should be co-opted onto the Joint Committee in a non-voting capacity.
- 10.2 If a decision is taken to co-opt employer and/or scheme member representatives onto the Joint Committee, it is proposed that the representatives should be sourced from the local boards and Officers will present a report to the next meeting of the Joint Committee setting out the process to be adopted and the terms of appointment. To assist with this the Joint Committee’s views on the issues set out in paragraph 7.9 would be welcomed.
- 10.3 If a decision is taken not to provide for employer and/or scheme member representation onto the Joint Committee, clear reasons should be provided for adopting this approach and this should be reported to the Local Pension Boards at each fund.

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