



## **BCPP Joint Committee**

**Date of Meeting:** 21<sup>st</sup> November 2018

**Report Title:** Arrangements for Appointing Scheme Member Representatives to the Joint Committee

**Report Sponsor:** Officer Operations Group Member – George Graham

### **1 Executive Summary:**

1.1 At its last meeting the Joint Committee resolved as follows in relation to a report on the membership of the Committee.

- That the Committee would not co-opt employer representative(s) onto the Joint Committee. The exact wording setting out the reasons for this decision would be brought back to the Joint Committee in order to meet the “comply or explain” approach.
- That the Committee agreed to participating observer (non-voting) scheme member(s) being co-opted onto the Joint Committee subject to a further paper being brought to the next meeting detailing the process to be adopted and the terms of the appointment(s).
- Any scheme member representative appointed should be a member of one of the funds participating in Border to Coast.
- The term of appointments(s) should be aligned to the Council’s municipal year.
- Substitute(s) should be allowed.
- If there was more than one scheme member representative, each representative should come from a different Border to Coast administering authority.

1.2 This report presents the Committee with proposals in relation to the practical implementation of this proposal, seeks a decision in relation to the number of scheme member representatives and in line with the “comply or explain” approach adopted by the Scheme Advisory Board sets out reasoning for not including representation of other scheme employers within the Joint Committee.

## **2 Recommendations**

- 2.1 The Joint Committee is asked to:
- 2.2 Agree the number of scheme member representatives (together with standing substitute(s)) that should be appointed from amongst the scheme member representatives on partner funds' local pension boards.
- 2.3 Agree that in the event of more nominations than places, selection be carried out by ballot on the basis of one authority one vote for each post.
- 2.4 Agree that, if more than one representative is to be appointed the representative selected with the greatest level of support should initially be appointed for approximately three years and the second placed for two, and thereafter for a term of two years, linked to the municipal year.
- 2.5 Agree to the role description for scheme member representative(s) set out at Appendix A.
- 2.6 Agree the statement of reasons for not appointing other employer representative(s) at para 5.3.

## **3 Arrangements for Appointing Scheme Member Representative(s)**

- 3.1 The preference of the Joint Committee as expressed in the resolution agreed at its meeting in July is to draw any scheme member representative(s) from amongst the relevant members of the 12 Local Pension Boards of the funds within the Partnership. Across the 12 Pension Boards there is currently provision for 41 scheme member representatives. Some of these representatives are nominated by the Trades Unions and others are volunteers appointed by the scheme manager. The number of scheme member representatives within each Board ranges from 2 (Lincolnshire and Northumberland) to 6 (South Yorkshire, although likely to have reduced to 5 by the time the Joint Committee meets). Thus there is a significant pool of potential candidates for the role(s) each of whom will have had to maintain an appropriate level of knowledge and skills as part of their role on the Board.
- 3.2 It has been confirmed to the Committee that it has the power under the Inter Authority Agreement to invite additional attendees to the meetings of the Joint Committee on the understanding that they can attend and participate but not vote.
- 3.3 Conferring any voting rights would be contrary to the one authority one vote principle which underpins the make up of the Committee. This attending/non-voting role would allow full access to all papers and deliberations of the Committee (when compared to the rights of the public to attend parts of the meeting only).
- 3.4 Any Scheme Member Representative(s) would be bound by the requirements of confidentiality which are associated with "restricted" agenda items and as part of their induction/training would have it explained to them that such papers were for their use in relation to the Committee only and should not be otherwise shared.

- 3.5 There are two principal options in terms of how any representative(s) could be selected:
- The role of providing the scheme member representative(s) could be rotated between the 12 Boards. This could also perhaps place a significant burden on some of the smaller boards, and might lead to a situation where representation for scheme members ended up being provided by “unwilling” volunteers
  - Local Pension Boards could be asked to nominate a willing individual from amongst their scheme member representatives. Should there be more candidates than places then a ballot would be required which in line with the overall principles agreed for Border to Coast governance would be carried out on a “one authority one vote” basis, with the votes being cast by the scheme member representatives on each local pension board.
- 3.5 Of these two options the second seems most likely to result in a situation where the representative(s) could be said in some way to be able to represent the totality of members across the 12 funds, and is officers’ preferred approach.
- 3.6 The Committee has already determined that provision should be made for standing alternate member(s) (substitutes) in the event of unavoidable absence. This would replicate the provision allowing partner funds to nominate a substitute member as necessary.
- 3.7 From the discussion at the last meeting the consensus view was that to be qualified to be appointed as a representative an individual should be an actual member of the scheme through one of the funds within Border to Coast, although no distinctions were made between active, deferred and retired members.
- 3.8 It will also be necessary to specify a term of office and (potentially) a term limit for any representative(s). In order to give any representative(s) the opportunity to properly establish themselves in the role it is recommended that a term of office of 2 years with a term limit of 2 terms is agreed. This will ensure that representation does not become “stale” through the passage of time. As it has been determined that the scheme member representative(s), should be a scheme member and come from one of the funds Local Pension Boards, should that representative cease to be a scheme member or no longer be on a Local Pension Board, then they will no longer be eligible to be on the Joint Committee and a new scheme member representative should be sought, at the earliest available opportunity.
- 3.9 If more than one representative is agreed officers would propose that in order to allow the role to become established the representative receiving the most support in the initial selection process should serve for a longer period.
- 3.10 The Committee has already determined that the terms of office should be aligned to the municipal year. However, it is believed that for the first appointments an attempt should be made to get the scheme member representatives in place for the next Joint Committee meeting in March 2019. The alignment to the municipal year should take place for the next round of elections.

3.11 It would also be appropriate to set out some expectations for this role in the same way as expectations are set out for members carrying out the roles of Chair and Vice Chair of the Joint Committee. A suggested role description is at Appendix A. In particular this sets out the expectation that the representative(s) will provide a report back to the 12 Boards following each meeting of the Joint Committee. This ensures that there is a proper feedback loop. Whether there is a desire to go beyond this is properly a matter for the Boards and representative(s) themselves. The role description at Appendix A notes the limits on disclosure of information considered in the private part of a meeting, which will need to apply to scheme member representative(s).

#### **4 Numbers of Representative(s)**

4.1 At its last meeting the Joint Committee deferred a decision on the number of scheme member representatives. The Scheme Advisory Board's statement makes no reference to the number of representatives that might form part of any oversight structure for a pool. Taking into account the bounds of practicality and the balance of the Joint Committee between voting and non voting members the following appear to be viable options:

- i. One representative, which would run the risk of allegations of tokenism given that the funds within Border to Coast collectively have around 1m members.
- ii. Two representatives, which would mirror the number of shareholder non executive directors.
- iii. Three representatives, which would mirror the arrangement with the three trade unions within the Scheme Advisory Board.

4.2 While it would be theoretically possible to go beyond three representatives, officers' view is that this would begin to change the balance of membership of the Committee and it would also likely be relatively difficult to supply a greater number from within the pool of local pension board members.

4.3 A decision on the number of representative(s) is a matter for the Committee and members views are requested.

#### **5 Scheme Employer Representation**

5.1 The resolution agreed at the last meeting in ruling out scheme employer representation asked officers to frame a statement of reasons for doing so in line with the "comply or explain" approach recommended by the Scheme Advisory Board.

5.2 In essence the views expressed by members in the debate on this issue summarised the reasoning around two principal points:

- There is no demand for this;

- The range of other employers is so great that it would be impossible to arrive at a sensible number of representatives that could cover such a range of different employers. In addition it was felt that the broad interests of all employers are aligned in terms of stable and affordable contributions and these interests are already represented.

5.3 Consequently the following statement of reasons is proposed:

*The Border to Coast Pensions Partnership Joint Committee has decided not to include a non-voting observer representing scheme employers who are not administering authorities within its membership. There are two reasons for this. Firstly, these employers are represented in the governance structures of the 12 Administering Authorities and there have, in contrast to scheme members, been no demands for such representation through this route. Secondly this is an incredibly diverse range of employers ranging from large unitary councils to small charities with one or two members and it is therefore considered that to provide effective representation of such a wide spectrum of organisations which participate in the Local Government Pension Scheme on different bases would be impractical. On balance it is considered that the common interest of this group of employers is in the achievement through an effectively implemented investment strategy of stable and affordable contribution rates, and that that interest coincides with a major part of the interest of administering authorities as employers who are represented on the Joint Committee.*

5.4 The statement of reasons will be included in appropriate documentation such as the BCPP Governance Charter and published with relevant governance documentation on the Joint Committee website.

## **6 Conclusion**

6.1 The Joint Committee is asked to approve the recommendations in section 2.

## **7 Author:**

George Graham, [ggraham@sypa.org.uk](mailto:ggraham@sypa.org.uk)

## **8 Supplementary Reading:**

Border to Coast Joint Committee – 10<sup>th</sup> July 2018 Agenda Item 5 – Joint Committee Membership.

## **Draft Role Profile**

### **Border to Coast Pensions Partnership Joint Committee – Scheme Member Representative**

#### **Core Purpose of the Role**

The core purpose of the role is two-fold:

1. To ensure that the members of the Border to Coast Joint Committee are made aware of the views of scheme members on the issues which they are considering.
2. To ensure that information on the decisions made by and the debates carried out within the Joint Committee are fed back to scheme members through their representatives on the local pension boards of the partner funds.

#### **Term of Office and Selection**

Each scheme member representative will normally be elected for a period of 2 years with a limit of 2 terms.

Selection will be by election from amongst the scheme member representatives on the local pension boards of the partner funds on the basis of one fund one vote exercised by the scheme member representatives on the 12 Local Pension Boards. In the first instance the candidate with the highest number of votes will be accorded a three year term and the second candidate a two year term in order to provide a degree of consistency in representation.

Each Local Pension Board will be able to nominate one candidate from amongst its scheme member representatives to ensure that those elected come from more than one of the partner funds.

Elections will be conducted by exhaustive ballot.

The third and fourth place candidates in any selection process will be appointed as standing substitute members of the Joint Committee.

#### **Eligibility**

To be eligible for this role an individual must be a member (active, deferred, or pensioner) of one of the partner funds within the Border to Coast Pensions Partnership. On ceasing to be a member of one of the partner funds, or on ceasing to be a member of one of the partner funds' local pension boards an individual will become ineligible and will cease to hold office.

#### **Commitment**

In addition to any commitment to the work of the local pension board of which they are a member a scheme member representative on the Border to Coast Joint Committee will be expected to attend as a minimum meetings of the Joint Committee (4 per year) and the Border to Coast annual conference (2 days per year). Representatives may choose additionally to spend time familiarising themselves with how the Border to Coast operating company runs its affairs.

Individuals undertaking the role will be expected to formally feedback in writing to the local pension boards of the partner funds following each Joint Committee meeting, and to produce an annual report which can be made available to the members of all the participating funds. Any member of a local pension board has a statutory obligation to maintain an appropriate level of knowledge and understanding of the issues with which the Board is dealing. It is expected that in fulfilling this obligation any scheme member representative will have sufficient knowledge and understanding to participate in the work of the Joint Committee.

### **Conflicts of Interest**

A scheme member representative as a member of a local pension board should have completed a register of interests and be familiar with issues where a conflict of interest might arise.

As a member of the Joint Committee a scheme member representative must disclose the fact that they have a conflict of interest in relation to any item where they feel this is the case. The relevant officer will provide advice as to whether the representative may participate in debate, stay in the room and not participate or should leave the meeting for the relevant item. These rules apply equally to councillors.

### **Confidentiality**

The Joint Committee operates under the terms of the Local Government Acts and some items which it discusses are discussed in private, for example where they concern the details of commercial contracts with third parties.

The Scheme Member representative will be present for **all** the Joint Committee's discussions whether in public or in private, and will receive **all** papers and be able to contribute to **all** debates, unless precluded from doing so by a conflict of interest.

As is the case with Councillors the Scheme Member representative will be limited in what they can disclose in relation to items discussed in private when reporting back to stakeholders. Appropriate support and guidance is available from fund officers on these issues. Equally scheme member representative(s) should not engage in widespread consultation for example with members of partner funds' local pension boards, on issues due to be considered in private before meetings.

### **Expenses**

Reasonable travel expenses in association with attendance at meetings of the Joint Committee and attendance at the Border to Coast Annual conference will be re-imbursed from the Joint Committee annual budget. It is considered to be appropriate to cover travel expenses as the Scheme Member representatives will be considered to be acting on behalf of the scheme members from all 12 funds.