



BCPP Joint Committee

Date of Meeting: 4th June 2019

Report Title: Annual Election of Committee Chair and Vice-Chair
Annual Nomination to Border to Coast Board

Report Author: Governance Sub Group Secretary – David Hayward

1.0 Executive Summary:

- 1.1 This report sets out the process by which the Joint Committee will select its Chair and Vice Chair and make a nomination to the Board of Border to Coast for a Non-Executive Director to sit on the Company Board.
- 1.2 In the normal course of events the process for these appointments and nominations would take place at this meeting.
- 1.3 However, legal advice is currently being sourced in respect of issues around the Partner Fund nominated representatives taking on the role of a Non-Executive Director in Border to Coast. Consequently it is considered appropriate to delay this process until this advice has been received and considered.
- 1.4 This report explains the current position and sets out proposals for the subsequent selection of office holders.

2.0 Recommendation:

- 2.1 That Members consider the report and adopt the following recommendations for the reasons set out in detail in this paper.
 - 2.1.1 That members agree to delay the selection process for the nomination of the Partner Fund Non-Executive Director role and the Chair and Vice Chair of the Joint Committee.
 - 2.1.5 That Members should be balloted in advance of the September meeting of the Joint Committee
 - 2.1.5.1 to nominate a candidate to be considered as a Non-Executive Director of Border to Coast for a term of two years
 - 2.1.5.2 to select Joint Committee Chair for 2019-2020
 - 2.1.5.3 to select Joint Committee Vice-Chair for 2019-2020

3.0 Chair and Vice Chair of the Joint Committee:

- 3.1 The Chair and Vice-Chair roles are elected annually in accordance with the terms of the Inter Authority Agreement. It should be noted that the Inter Authority Agreement (IAA) allows a Chair and Vice Chair to serve for consecutive terms. As both Chair and Vice Chair are in their first terms they are eligible for re-election.
- 3.2 The role of the Chair and Vice Chair is described in the role profile appended to this report as Appendix 1. The Vice Chair is required to shadow the Chair and to Chair any Joint Committee meetings that the Chair is unable to attend.

4.0 Partner Fund Nominated Non-Executive Director:

- 4.1 In 2017/18, the Joint Committee discussed the request from the Border to Coast Chair, Chris Hitchen, for Partner Fund representation on the Border to Coast Board. In particular Chris shared his view that “direct shareholder involvement in the Board would be invaluable, particularly at this critical stage in the company’s development. Unity of purpose and alignment of interest are vital if Border to Coast is to win and retain the confidence of its clients and shareholders, and, even more importantly, build a successful long-term-oriented investing institution. A shareholder voice in the Boardroom would greatly mitigate the risk of the Company setting itself at odds, however unintentionally, with stakeholder concerns, and would greatly assist mutual understanding. Shareholder involvement would also mitigate a concern that the Board as currently structured may not have sufficient numbers to populate the necessary committees whilst minimising conflicts of interest.” (Paper to Joint Committee October 2017).
 - 4.2 The Joint Committee subsequently agreed that the nomination for Non-Executive Director will be for a term of two years (as agreed with the Company). At the initial selection it was agreed that one director would be asked to serve for an initial term of two years and another for one year with subsequent appointments being for a two year term. This has the result of requiring the Joint Committee to nominate one candidate in each year. The Committee resolved that no person should serve more than two consecutive terms. Therefore, an election to establish the nominated candidate will take place each year.
 - 4.3 A role profile for these Partner Fund nominated Non-Executive Directors is attached as Appendix 2. This has been updated from the version from last year in the light of experience and review by the Border to Coast Board.
 - 4.4 Any nomination for the Non-Executive Director role is subject to approval by the Company Board and the FCA. Attached as Appendix 3 is some further details about the process and issues that should be considered before candidates put themselves forward for this role. This appendix also sets out the time commitment and the proposed remuneration.
 - 4.5 It is recognised that acting as a director of the Company will be a Disclosable Pecuniary Interest within the meaning of s31 Localism Act 2011. Depending on the circumstances and arrangements at each individual administering authority, it may then prove necessary to refer the matter to the individual authority’s Standards Committee for a dispensation pursuant to s33 of the Localism Act. Ultimately,
-

however, it is for candidates for the role of partner fund nominated Non-Executive Directors, to satisfy themselves that they are able to carry out such functions in relation to their local pensions committees as they deem desirable.

- 4.6 Legal advice in relation to the pecuniary interest and how a dispensation might be couched is being sought on behalf of the partner funds. It was considered necessary to obtain such advice following the resignation of one of the Partner Fund nominated Non-Executive Directors.
- 4.7 At the time of the Joint Committee meeting in March it was expected that this advice would be available in time for the nomination process for the Partner Fund Nominated Non-Executive Director to be concluded at this meeting of the Joint Committee. However, due to the need ensure that all twelve Partner Funds were comfortable with the questions being asked, coupled with the prioritisation of work on the alternatives investment vehicles has meant that this advice is not yet available.
- 4.8 Once available this will be circulated to the monitoring officers at each administering authority to consider the position so this can be discussed with any potential candidate for the nomination for this role. It is not considered appropriate to progress with the nomination process until this advice is received.

5.0 Election Process to be Adopted:

- 5.1 The normal process would be that the election to the posts of Chair and Vice Chair of the Joint Committee and the nomination for the role of Partner Fund nominated Non-Executive Director should take place at the first Joint Committee meeting following the start of the new municipal year.
 - 5.2 However, it has been previously agreed that any member selected as Non-Executive Director should not continue to sit on the Joint Committee in a voting capacity. For this reason it is important that the ballot for the nomination to the Non-Executive Director role should be held first.
 - 5.3 Consequently, for the reasons set out above it will not be possible to hold the vote for the nomination of the Partner Fund nominated Non-Executive Director or the election for the Chair and Vice Chair of the Joint Committee at the conclusion of this meeting.
 - 5.3 A pragmatic approach is therefore proposed whereby the votes will take place by postal (or equivalent) ballot. It is suggested that the ballots will be undertaken using the Single Transferrable Vote (STV) system, as was used for the scheme member observer position on the Joint Committee.
 - 5.4 Previous ballots for these roles have been under the Exhaustive Ballot System, however, it is proposed to amend this approach on this occasion as the STV is considered to be better suited to a postal ballot.
 - 5.5 Prior to commencement of the ballot process all members wishing to become either Chair or Vice Chair or to be nominated as a Non-Executive Director of the Company will be asked to circulate a short supporting statement to all members of the Joint Committee (through the Secretariat) not less than 14 days before the proposed ballot date. For the Non-Executive Director role, Members are asked that the supporting
-

statement addresses the key provisions of the Job Description as this will be subsequently used to support the approval process.

- 5.5 There should be no adverse consequences from the delay in the process as the new Chair and Vice Chair should be in place before the next Joint Committee meeting in September. It will however, be important to progress with the process as soon as possible to allow Border to Coast to progress with the process of getting FCA approval for the nominated candidate for the Non-Executive Director Role.

6.0 Conclusion:

- 6.1 That the Joint Committee should agree the arrangements for conducting the selection process for the Chair and Vice Chair of the Joint Committee and for the nomination of the Partner Fund Non-Executive Director.

Report Author:

David Hayward: David.Hayward@southtyneside.gov.uk

Further Information and Background Documents:

Appendix 1: Role Profiles for Chair and Vice-Chair of the Joint Committee

Appendix 2: Role Profile for Border to Coast Non-Executive Directors

Appendix 3: Border to Coast Process for Partner Fund Nominated Non-Executive Directors

Please Note – These appendices have not changed from those previously reported at the meeting in March.



Role Profile for Chair and Vice-Chair

Overall

- Leading the BCPP Joint Committee to enable it to fulfil its purpose.
- To ensure an effective relationship between:
 - the Joint Committee and BCPP Limited
 - the Joint Committee and the partner funds
 - the Joint Committee and the external stakeholders/community
- Acting as a spokesperson and figurehead as appropriate.
- To supervise and support the Chief Executive and Non-exec Chair of BCPP Limited

Specifically

- Plan and prepare the BCPP Joint Committee meetings with others as appropriate.
- Chair BCPP Joint Committee meetings ensuring:
 - A balance is struck between time-keeping and space for discussions.
 - Business is dealt with and decisions made.
 - Decisions, actions and deliberations are adequately minuted.
 - The implementation of decisions is clearly assigned and monitored.
- Ensure that a successor to the post of Chair is found when the term of office is due to end and the new term begins.

Experience and Qualities

- A willingness to lead the partnership.
- A strong background/working knowledge of the LGPS.
- Recent experience of serving on an LGPS Pensions Committee.
- A working knowledge of asset strategy and implementation thereof.
- Possesses tact, diplomacy and powers of persuasion.
- Has the relevant skills and experience to run a meeting well.

Capacity

- The capacity to commit the time that will be required to undertake this role, including any travel that may be required to undertake duties associated with the role to represent BCPP nationally.

Role of the Chair

1. Chairing the Joint Committee Meeting

The Chair (or in his/her absence, the Vice-Chair) will be the person presiding over BCPP Joint Committee meetings. The Chair of the BCPP Joint Committee does not have a casting vote.

2. Election of the Chair

The Chair will be elected by the Joint Committee in accordance with an agreed procedure annually from among the Joint Committee Members and will receive regular briefings by the Chief Executive and Chair of the BCPP Company on current issues. They will also receive direct support from the Chair of the Officer Operations Group.

3. Responsibilities of the Chair

The Chair will have the following responsibilities:

- 3.1 to uphold and promote the purposes of the terms of reference and the inter authority agreement, and to interpret these when necessary during BCPP Joint Committee meetings;
 - 3.2 to preside over meetings of the BCPP Joint Committee so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the Partner Funds and their employers and members;
 - 3.3 to ensure that the BCPP Joint Committee is a forum for the debate of matters of concern to Partner Funds and their employers and scheme members
 - 3.4 to be the public face of the BCPP Joint Committee and to represent the Partner Funds at wider events as required
-

Appendix 2

Role Profile for Border to Coast Non-Executive Directors

Role Title: Non-Executive Director	
<p>Purpose of the role:</p> <p>To fully participate in ensuring the Board exercises effective leadership of and control over Border to Coast. To constructively challenge and contribute to the development of strategy, performance and the management of risk.</p> <p>About Border to Coast:</p> <p>Border to Coast Pensions Partnership is one of the largest pension pools in the UK. One of eight Local Government pools, Border to Coast oversees the investment of pensions assets. Our customers are at the heart of what we do; delivering long-term sustainable investment outcomes for our Partner Funds. We build long-term partnerships through working collegiately, in a sustainable and transparent way.</p> <p>Border to Coast is an FCA regulated investment company (“Border to Coast Pensions Partnership Ltd”) which manages the assets of its twelve Partner Funds through both internal and external management within a number of investment vehicles, including an Authorised Contractual Scheme.</p> <p>A non-executive director is a member of the board of directors of an organisation, but not a member of the executive management team. They are not employees of the company, instead they have a contract for services. However, they do have the same legal duties, responsibilities and potential liabilities as their executive counterparts.</p>	
Reports to: Chair of the Board	Level: n/a
Function: Board	Team: Board
Direct Reports: 0	SMCR: Certified [SMF/ Certified/ Conduct]
Role line of defence:	n/a
<p>Role Dimensions</p> <p>Budget Responsibility: n/a</p> <p>Number of employees in area of responsibility: 0</p> <p>Mandate: Board remit</p> <p>Prescribed Responsibilities (SMF): n/a</p> <p>Time Commitment: Expected to be two to three days per month, with availability for meetings, induction and training as required</p>	

Key Accountabilities

Role Specific Accountabilities

- Support the Chair and Executive Team in instilling the appropriate culture, values and behaviours in the boardroom and beyond
- Provide independent oversight and scrutiny of Border to Coast including:
 - Provide an impartial and independent view of Border to Coast and its operations, removed from the day-to-day running of the business
 - Oversee the performance of the Board and Executive Team in meeting strategic objectives, including monitoring financial controls and risk management systems
- Draw on wider experience, in other organisations, to provide the Board and Border to Coast Executive Team with a breadth of understanding and insight, including:
 - Challenge and contribute to the development of the strategy of Border to Coast
 - Support the development of a suitable succession plan for the Board and CEO
 - Use specialist knowledge to input to decision making processes
- Promote a culture of responsible investment and stewardship throughout the organisation
- Commit to building a full understanding of Border to Coast, especially in those areas of the business with a significant level of risk
- Take time to understand various stakeholder needs and ensure these are addressed at Board level
- Chair Committees of Border to Coast [Independent NEDs only; not Partner Fund NEDs]

Skills, Knowledge and Experience

Skills, Knowledge and Qualifications

Essential

- Excellent inter-personal and communication skills
- Awareness of Border to Coast customers and their particular needs
- Understanding of LGPS investment requirements

Desirable

- Other corporate knowledge – health and safety, ICT strategy and systems, HR, information management and data protection

Additional

- Skills, knowledge and qualifications as required dependant on succession planning requirements as per the Board skills matrix

Experience

Essential

- Extensive experience of working as a non-executive director/Local Authority Committee Chair either within a public sector environment or FCA-regulated business
- Excellent understanding of working across multiple stakeholders
- Ability to satisfy fitness and propriety test for Approved Person (and, in future, Senior Manager or Certified Person) status and to continue to satisfy test including DBS check

Desirable

- Asset management experience would be beneficial, gained either in the commercial or pension fund sectors
- Familiarity with the FCA Statements of Principle for Approved Person (and, in future, FCA Conduct Rules).

It is important to achieve an appropriate balance of experience amongst the non-executive directors

Appendix: FCA and Companies Act requirements for Non-Executive Directors

FCA Requirements

Border to Coast's Directors are responsible for the governance and oversight of the Company in relation to the 11 FCA Principles of Business:

1 Integrity	A firm must conduct its business with integrity.
2 Skill, care and diligence	A firm must conduct its business with due skill, care and diligence.
3 Management and control	A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
4 Financial prudence	A firm must maintain adequate financial resources.
5 Market conduct	A firm must observe proper standards of market conduct.
6 Customers' interests	A firm must pay due regard to the interests of its customers and treat them fairly.
7 Communications with clients	A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.
8 Conflicts of interest	A firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.
9 Customers: relationships of trust	A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgment.
10 Clients' assets	A firm must arrange adequate protection for clients' assets when it is responsible for them.
11 Relations with regulators	A firm must deal with its regulators in an open and cooperative way, and must disclose to the appropriate regulator appropriately anything relating to the firm of which that regulator would reasonably expect notice.

Directors who hold Senior Management Functions or Controlled Functions are also subject to the FCA's individual conduct rules and standards:

- Rule 1: You must act with integrity.
- Rule 2: You must act with due skill, care and diligence.
- Rule 3: You must be open and cooperative with the FCA, the PRA and other regulators.
- Rule 4: You must pay due regard to the interests of customers and treat them fairly.
- Rule 5: You must observe proper standards of market conduct.

The Companies Act Requirements

A Director should display possession of the knowledge, skill and experience that may reasonably be expected of a person carrying out the role of Director. It codifies the Directors' duties into law:

- To act within powers;
- To promote the success of the Company for the benefit of its shareholders;
- To exercise independent judgment;
- To exercise reasonable care, skill and diligence;
- To avoid conflicts of interest;
- Not to accept benefits from third parties; and
- To declare interests in proposed or existing transactions or arrangements.

Duty two requires Directors to have regard (amongst other matters) to the likely consequences of any decision in the long-term, the interests of employees, the need to foster relationships with customers, suppliers and others, the impact of operations on the community and the environment, the desirability of maintaining a reputation for high standards of business conduct and the need to act fairly as between shareholders. The government has stated that promoting success means striving for a “*long term increase in value*”.

The conflict of interest provisions requires Directors to avoid profiting from their position as a Director on an opportunistic basis and apply to exploiting an opportunity, property or information even when the Company could not take advantage of it.

Version	
Version No. and Date	v1.0; 22-02-2019
Profile created/updated by	Peri Thomas
Profile reviewed by people manager (state name & role)	Chris Hitchen, Chair of Board
Profile reviewed by HR (state name & role)	Peri Thomas, Head of HR



Border to Coast Process for Partner Fund Nominated Non-Executive Directors

- 1 The Border to Coast Board has requested that the following be shared with the Joint Committee to provide transparency and promote understanding for those considering standing for nomination.

Pre-Selection

- 2 Prior to beginning the selection process the Joint Committee and Nominees should satisfy themselves that those offering themselves for selection do not have an unacceptable conflict of interest if the person appointed continues with their role with the partner fund's pension committee and the Board of Border to Coast.
- 3 The applications from the Nominees should illustrate how they meet the requirements of the Job Description (Appendix 4), including the required minimum time commitment and the requirement to undertake regular training, some of which is regulatory and compulsory.
- 4 The applicants should be comfortable with the post-selection process, including the FCA approval process. The Appendix to the Job Description details the requirements expected of directors by the FCA and the Companies Act.
- 5 Applicants must be willing to share the results of their DBS check with Border to Coast and the members of its Board.

Post-Selection

1. The Board would expect to meet the nominated candidates to assess whether they are comfortable to recommend to the Shareholders that they approve the appointment of the proposed nominee as a director of the company.
 2. The Board reserves the right to not recommend for approval if they believe that the nominees do not meet the role profile criteria.
 3. To satisfy the FCA regime, the nominees must be credit checked, satisfy anti-money laundering checks and be cleared by the Data Barring Service. At present all NEDS must then be approved by the FCA (after December 2019 under the Senior Managers and Certification Regime (Core), Border to Coast will have to self-certify NEDs other than the Chair).
 4. Nominees will need to provide personal information, including photo ID and two forms of address information to apply for the Data Barring Service checks. The process of gathering the data will be managed by the Border to Coast HR team. Once the credit reference, anti-money laundering and DBS checks are completed and shared with Border to Coast, the Border to Coast Compliance team will apply for FCA approval, up to December 2019, or afterwards, register the new NED with the FCA.
-

5. The Board must approve the recommendation of the nominees to the Shareholders for approval to be directors. The Board may approve conditional upon the successful completion of the checks referred to above and the FCA's approval.
6. Once the checks are successfully completed, and FCA and Board approval has been obtained, the Company Secretariat will issue a resolution seeking the consent of 75% of the shareholders in line with the requirements of the Shareholders' Agreement. The time-frame for the return of Shareholder approvals vary between each of our Partner Funds.
7. Once approved by the Shareholders, the nominees will be required to enter into a service contract with Border to Coast.
8. Once all of the above is completed, the Company Secretary will register the nominees on Companies House and update the Company's register of Directors and Secretaries. Only then, will the nominee become a director of Border to Coast. This process may take up to 3 months. Hence the term for new Partner Fund nominated NEDs is expected to run from the October following nomination.

Time Commitment and Remuneration

9. The Board also asked that further information be provided regarding the time commitment involved in the role. The Board is currently scheduled to meet six times a year, with Committee meetings 4-5 times a year in addition. Telephone meetings may occur where urgent matters are under consideration. The full meetings usually last about 5 hours; telephone meetings are shorter and are held to deal with urgent business. Typically meetings are held in the Company's office in Leeds. Papers are circulated a week before the meeting and reading time is required.
 10. It is emphasised that individuals will sit as directors of the Company and provide expert input as such based on their personal knowledge and experience. They are not holding office as representatives of individual funds and will be expected to act in their view of the best interests of the Company.
 11. Remuneration is approved by Shareholders on recommendation of the Remuneration Committee. The current level has been agreed at £12,000 pa,
-