



## BCPP Joint Committee

**Date of Meeting:** 11<sup>th</sup> September 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 It is proposed to hold a selection process at the close of this meeting.
- 1.3 The Joint Committee will select (in this order ) the following:
  - 1.3.1 Nominee for Non-Executive Director Role for a two year term (2019-2021)
  - 1.3.2 A Chair for the Joint Committee for one year (2019-2020)
  - 1.3.3 A Vice Chair for the Joint Committee for one year (2019-2020)

### 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 note the guidance about the roles set out in this report
  - 2.1.2 That members undertake a selection procedure for the roles set out above using the single transferable vote method following the conclusion of business in this meeting
  - 2.1.3 That Members consider the term of office to be served by the Chair and Vice-Chair and determine whether that should run to the June 2020 or September 2020 meeting of the Joint Committee

### 3.0 Chair and Vice Chair of the Joint Committee:

- 3.1 The Chair and Vice-Chair roles are selected annually in accordance with the constitution of the Joint Committee set out in 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 The Joint Committee has previously determined that it is beneficial to provide two candidates to the Company to act as Non-Executive Directors. One of these roles is presently vacant following the resignation of the previous incumbent. The position was in any event due to be re-considered at this time.

- 4.2 The selected candidate will be expected to serve a two year term on the Board.

- 4.3 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.

- 4.4 Following some concerns raised about the appropriateness of a Councillor being appointed to the role of Non-Executive Director and how a dispensation might be couched, it was agreed that external legal advice would be sought on behalf of the partner funds.

- 4.5 This advice has now been received from leading Counsel, which provides support for the approach being adopted by the Partner Funds in the Border to Coast pool and provides guidance on how a possible dispensation under the Localism Act could be put in place to secure that.

- 4.6 The Role Profile, the FCA requirements and the information previously provided by the Company regarding the selection procedure are annexed to this report. (Appendices 2 and 3).

#### **5.0 Election Process to be Adopted:**

- 5.1 The Joint Committee constitution simply provides for the members of the Joint Committee to select a Chair and Vice Chair. Practice to date has been to elect those roles outside of the Committee Meeting so the provisions of voting by show of hands do not apply and a secret ballot can be used. The normal process would be that the election to those posts 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 Due to the issues noted above in connection with Partner Fund Nominated Non-Executive Directors, it was not possible to undertake this process at the first meeting of the municipal year, June 2019.
- 5.4 Instead, at the June meeting of the Joint Committee, it was agreed that the selection process would be put on hold pending the receipt of legal advice and consideration of this by the administering authorities. To facilitate this, it was further agreed that the election and nomination process would be undertaken by “postal ballot”, using a single transferable vote, in advance of the September meeting of the Joint Committee to provide time for the new Chair of the Joint Committee to be in place in advance of the meeting.
- 5.5 However, it has taken significantly longer than expected to get to a point where there is agreement amongst the administering authorities on the advice received and a proposed dispensation. Given that this stage was only reached in mid-August, this was not considered to be sufficient time to advise the Joint Committee of the position, seek nominations and then provide time to run a postal ballot process in advance of the next Joint Committee meeting.
- 5.6 Following discussions with the current Chair of the Joint Committee, officers at Border to Coast and pension fund officers, it was proposed that the most appropriate and practical approach would be to hold the nomination and election process at this, the next Joint Committee. Consideration was given to holding this process on the morning of the meeting in advance of the meeting itself, but it was felt to be unfair to the successful candidate for the position of Chair of the Joint Committee, to have to Chair the meeting immediately afterwards, without the opportunity to fully prepare.
- 5.7 It has therefore been concluded that the practical approach was to hold the nomination and election at the end of the Joint Committee meeting, as would have been the case if we were able to hold the nomination and elections in June. There is a further complication in that at least one of the Partner Funds Joint Committee representative is unable to attend this meeting and could not participate in any ballot in person.
- 5.8 It is considered important that each Partner Fund is provided with the opportunity to be able to take part in the process. This could easily be accommodated by allowing a Joint Committee member to appoint a proxy to vote on their behalf. However, the past practice when votes have been cast at the end of a Joint Committee meeting has been to use an exhaustive ballot process. However, this does not easily lend itself to a proxy vote, especially if the vote goes to a second or third ballot.
- 5.9 It is therefore, considered appropriate to use an election process, which more easily allows Partner Fund representatives to participate whether they are in attendance or not. It is believed that this can be reasonably achieved by using the single transferable vote (STV) system for the ballot. This is the process that was proposed and agreed by the Joint Committee, when the intention was to undertake a postal ballot. It was also the method used for the selection of the scheme member representative. Should a member representing one of the Partner Funds not be able

to attend the meeting and the vote in person they will be provided with the opportunity to submit their ballot to the Committee secretariat, who will ensure that the vote is counted along with those cast in person, .

- 5.10 It would seem appropriate to also adopt this method for future selections as well, in order to ensure that members can always participate in the selection process and to have as flexible a process as possible. Adoption of STV would for example, allow use of a “postal” ballot to fill any casual vacancies without having to wait for the relevant moment in the committee cycle or when members are unable to attend a meeting.
- 5.11 Prior to this meeting and the circulation of this report all members wishing to become either Chair or Vice Chair or to be nominated as a Non-Executive Director of the Company, have been asked to circulate a short supporting statement to all members of the Joint Committee (through the Secretariat). The supporting statements will be made available to members under separate cover immediately following the closing date for submissions on 2 September 2019.
- 5.12 Members will note that the process has been delayed by one committee cycle and that this has a potential knock on effect for the terms to be served. In the case of the Non-Executive Director it may still be possible to have the role term line up with others on the Board provided that the FCA vetting and Board and shareholder approvals are quickly obtained. In the case of the role of Chair and Vice Chair it is open to the Joint Committee whether the roles should be performed until the next meeting after the close of the municipal year (as previously) or should run through to next September’s meeting. Either option is operable and members are asked to determine their preference at the meeting.

## **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:**

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### **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><b>Purpose of the role:</b></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><b>About Border to Coast:</b></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 <a href="#">Partner Funds</a> 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>	
<b>Reports to:</b> Chair of the Board	<b>Level:</b> n/a
<b>Function:</b> Board	<b>Team:</b> Board
<b>Direct Reports:</b> 0	<b>SMCR:</b> Certified [SMF/ Certified/ Conduct]
<b>Role line of defence:</b>	n/a
<p><b>Role Dimensions</b></p> <p><b>Budget Responsibility:</b> n/a</p> <p><b>Number of employees in area of responsibility:</b> 0</p> <p><b>Mandate:</b> Board remit</p> <p><b>Prescribed Responsibilities (SMF):</b> n/a</p> <p><b>Time Commitment:</b> 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:

<b>1</b> Integrity	A firm must conduct its business with integrity.
<b>2</b> Skill, care and diligence	A firm must conduct its business with due skill, care and diligence.
<b>3</b> Management and control	A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
<b>4</b> Financial prudence	A firm must maintain adequate financial resources.
<b>5</b> Market conduct	A firm must observe proper standards of market conduct.
<b>6</b> Customers' interests	A firm must pay due regard to the interests of its customers and treat them fairly.
<b>7</b> 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.
<b>8</b> Conflicts of interest	A firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.
<b>9</b> 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.
<b>10</b> Clients' assets	A firm must arrange adequate protection for clients' assets when it is responsible for them.
<b>11</b> 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	
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<b>Profile created/updated by</b>	Peri Thomas
<b>Profile reviewed by people manager (state name &amp; role)</b>	Chris Hitchen, Chair of Board
<b>Profile reviewed by HR (state name &amp; role)</b>	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,