

**Scheme member  
representation on the Joint  
Committee**



**ACCESS Joint Committee**

**Date:** 9 September 2019

**Report by:** Officer Working Group

<b>Subject:</b>	<b>Scheme member representation on the Joint Committee</b>
<b>Purpose of the Report:</b>	For the Joint Committee to reconsider scheme member representation on the Committee in light of recent UNISON correspondence with ACCESS member authorities.
<b>Recommendations:</b>	That the Joint Committee: 1) Note the report  2) Considers the recommendation by s151 Officers that no change be made to the current Joint Committee arrangements.
<b>Enquiries to:</b>	Names – Kevin McDonald E-mail – <a href="mailto:kevin.mcdonald@accesspool.co.uk">kevin.mcdonald@accesspool.co.uk</a>

**1. Purpose**

- 1.1. The purpose of this report is for the Joint Committee to reconsider scheme member representation on the Committee in light of recent UNISON correspondence with ACCESS member authorities.

## **2. Background**

- 2.1. At its meeting on 19 September 2018 the Joint Committee formally considered whether it wished to make any changes to representation on the Committee, to incorporate scheme member and/or Local Pension Board (LPB) member representatives either as observers or voting members. Consideration was as a result of the publication of Scheme Advisory Board (SAB) guidance on scheme member representation (Appendix 1) and national/local pressure.
- 2.2. It was resolved that no formal changes to the attendance arrangements would be made and that a response would be sent to the ACCESS Authorities' LPBs from the Chairman, on behalf of the Joint Committee, setting out the reasons for the decision, notably that:
  - 2.2.1 existing transparency arrangements were sufficient;
  - 2.2.2 there were existing opportunities for LPB elected members to attend ACCESS meetings; and
  - 2.2.3 engagement with LPBs was better undertaken at a local authority level.
- 2.3. A verbal update was provided at the Committee meeting of 10 December 2018 which outlined an imminent asset pooling guidance consultation that was expected to make reference to representation in asset pool governance structures. It was agreed to defer issuance of the letter pending release of the guidance. The guidance was subsequently issued in January 2019, with LPB representation covered in Section 4.5 and 4.6 (see Appendix 4), and issuance of the letter was further deferred until the outcome of the consultation was known. It is expected that a further round of consultation on asset pooling guidance will be forthcoming.
- 2.4. At the Committee meeting of 11 June 2019, the Chairman requested the Committee reconsider scheme member representation following receipt of letters from UNISON by a number of ACCESS Funds.
- 2.5. Colleagues at LGSS organised a survey of each ACCESS Authorities governance structures and transparency arrangements, which is described in section 4 of this report.
- 2.6. On the 15 August 2019 an email with was received from UNISON, with similar wording to that used in the letters referred to in para 2.4, addressed to the Chairman and Vice-Chairman of the Joint Committee and copied to other Committee Members as well as Kevin McDonald, the Interim Director, ACCESS Support Unit.
- 2.7. Ahead of the Joint Committee, this matter was considered at the 22 August 2019 meeting of s151 Officers from ACCESS Authorities.
- 2.8. It is the ACCESS Support Unit's current understanding that four of the eight LGPS Asset pools have scheme member representation. These representatives are believed to have the status of observer(s). It is noted that the governance arrangements of pools will be subject to review from time to time.

### **3. UNISON letters and emails**

- 3.1. Six ACCESS funds, as well as the Joint Committee, have received one or more letters from UNISON requesting seats be created on the ACCESS Joint Committee for scheme member representatives.
- 3.2. UNISON suggest that nominations are sought from scheme member representatives on “fund boards” and that nominations are then put to the vote by all scheme member representatives.
- 3.3. UNISON’s rationale for requesting scheme member representatives is set out in their letter thus:

*“We believe that having member representation on the committee will dispel any notion that the pool is not considering the interests of scheme members. We also believe that the scheme member reps on the Pool’s fund boards have demonstrated their commitment to ensuring that the LGPS works for all its employers and scheme members”.*

- 3.4. In the majority of UNISON letters, it was not clear whether the request was for observers or representatives with voting rights. The email to the Joint Committee is attached at Appendix 1. The constitution of the Joint Committee does not preclude Observers being appointed:

*“The Joint Committee may co-opt any other person whom it thinks fit to be a non-voting member of the committee.”*

### **4. Local governance structures and transparency arrangements**

- 4.1. An analysis of existing local governance structures and transparency arrangements is useful in light of the recent UNISON request and the rationale for the original Joint Committee decision of 19 September 2018.
- 4.2. All administering authorities delegate decision making in connection with Pension Fund matters to a Pension Committee or Panel (usually a Section 101 Committee). A number of authorities have certain investment matters delegated to a Sub-Committee or other supporting governance body. In all administering authorities, except Hampshire, the Local Pension Board is separate from the Section 101 Committee; at Hampshire the Section 101 Committee and Local Pension Board is combined.
- 4.3. The analysis first considered voting rights on Section 101 Committees and whether scheme member representatives / “Other Employer” \* representatives have such rights or observer status – if administering authorities did not grant voting rights locally it may be difficult to justify such rights within ACCESS. Table 1 illustrates that the majority of scheme member and “Other Employer” representatives have voting rights, but such practice is not universal.

\*“Other Employer” means representatives of any other scheme employer aside from the respective administering authority.

Table 1: Status of representatives on Section 101 Committees

	Number of authorities		
	Voting representative	Observer representative	No representative
Scheme member representatives	7	4	0
Other Employer representatives	9	1	1

Note

Essex provides voting status to Scheme Member and Other Employer representatives on its main s101 cttee and observer status on its investment s101 sub cttee.

4.4. In terms of transparency and information flows to LPB members, including scheme member representatives, the following provides a summary of current local practice:

- 4.4.1 10 administering authorities allow LPB representatives to attend both public and exempt Section 101 Committee agenda items (noting that a Councillor LPB member from an administering authority will automatically have a right of access);
- 4.4.2 Of the 10 administering authorities that allow attendance for all agenda items, the majority experience either nil (2 authorities) or occasional (4 authorities) attendance only;
- 4.4.3 50% of these 10 authorities allow LPB members to ask questions at Committee;
- 4.4.4 10 administering authorities provide LPB members with access to *Section 101 Committee* papers;
- 4.4.5 With regards to providing LPB members with access to *Joint Committee* papers, 9 administering authorities provide access and 2 authorities do not;
- 4.4.6 Where authorities do provide access, the vast majority (7 authorities) provide LPB members with access to both public and exempt papers;
- 4.4.7 10 LPBs have a regular ACCESS/asset pooling agenda item on their LPB agenda.

## 5. Summary

- 5.1. The analysis in Section 4.4 shows that transparency, engagement, and information flows on asset pooling matters between Section 101 Committees and LPB members, both scheme member and employer representatives, is strong across ACCESS administering authorities, albeit using different approaches.
- 5.2. Whilst most administering authorities allow LPB representatives to attend their full Section 101 Committee, actual attendance is relatively limited (Section 4.4.2). Furthermore, there has been nil attendance at the public part of Joint Committee meetings in which a minority of reports are considered.

- 5.3. **The existing structures in place across the majority of ACCESS Funds enable scheme member representatives at the local Fund level to be aware of and scrutinize progress with the ACCESS pooling arrangements, either through attendance at the Section 101 committee or through a pooling agenda item on the LPB agenda.**

## **6. Guidance & draft guidance**

- 6.1. The broad role of LPBs is set by the Pensions Regulator in Code of Practice 14: Governance and administration of public service pension schemes - *“assisting the scheme manager to comply with the scheme regulations and other legislation relating to the governance and administration of the scheme and any requirements imposed by the regulator”*. Elsewhere the Regulator identifies effective investment governance arrangements as being an area of specific responsibility (Appendix 2).
- 6.2. Both SAB and MHCLG recognise the importance of LPB/member representation in the asset pooling environment. SAB expect that such representatives assist with the assurance of transparent reporting from pools and ensure the effective implementation of strategies by pools (Appendix 3). MHCLG in their draft guidance identify the “key role” of LPBs *“in pool governance, given their responsibilities...for assisting authorities in securing compliance with legislation, and ensuring effective and efficient governance and administration of the LGPS”* (Appendix 3).
- 6.3. CIPFA additionally have produced guidance on the role of LPBs in connection with investment pools and identified, at a practical level, a range of matters that LPBs can review (Appendix 5). CIPFA note *“There are dangers of re-inventing wheels. It would appear that there is scope for boards within the same pool liaising to establish a cost-effective way of gaining the appropriate assurances”*.
- 6.4. **As set out in section 4 and 5, there is already significant scheme member representation at the local fund level, either through the Section 101 committee or at the LPB, to ensure that scheme members can fulfil their role as set out in the above guidance.**

## **7. Meeting of ACCESS Authorities' s151 Officers**

- 7.1. The latest meeting of s151 Officers took place on 22 August 2019 at which eight ACCESS Authorities were represented. A draft of this report had been circulated in advance and the discussion centred upon changing the existing arrangements to incorporate either one or two Scheme Member representatives, with observer status, on the Joint Committee.
- 7.2. S151 officers noted in particular that the ACCESS Pool's objectives include the following: "[to] enable participating Authorities to execute their fiduciary responsibilities to LGPS stakeholders, including scheme members and employers...".
- 7.3. Given ACCESS's role is to facilitate Authorities implementing their investment strategies, s151 Officers felt:
  - It appropriate that each participating Authority to be represented on the Joint Committee, as currently constituted, and;
  - that it is therefore for each Authority to determine the most appropriate means of involving scheme member and employers in their own discharging of their fiduciary duty and the associated sharing of information relating to their pension fund, including information on asset pooling.
- 7.4. S151 officers discussed the current local arrangements (described in section 4) and observed that transparency, engagement, and information flows on asset pooling matters between Section 101 Committees and LPB members, both scheme member and employer representatives, is strong across ACCESS administering authorities, albeit using different approaches.
- 7.5. In light of the above, the s151 Officers agreed to recommend to the Joint Committee that no change be made to the current arrangements.

## **8. Recommendations**

### **8.1. That the Joint Committee:**

- i. Note the report
- ii. Considers the recommendation by s151 Officers that no change be made to the current Joint Committee arrangements.

## **9. Appendices**

- 9.1. Appendix 1: SAB statement on investment pool governance.
- 9.2. Appendix 2: DRAFT Statutory guidance on asset pooling in the Local Government Pension Scheme
- 9.3. Appendix 3: UNISON email to the Joint Committee
- 9.4. Appendix 4: The Pensions Regulator guidance
- 9.5. Appendix 5: CIPFA The Guide for Local Pension Boards

## **10. Background Papers**

- 10.1. Joint Committee 19/9/2018 - Scheme Member and / or Local Pension Board Representation on the Joint Committee

## **Appendix 1: UNISON email to the Joint Committee**

*Dear Councillors Reid and Kemp-Gee,*

*We are writing to you, as UNISON representatives and members on Pension Fund Boards and Committees within the ACCESS Pool.*

*Four of the largest pools have all agreed to, or have already have, scheme member reps on their oversight boards. We are asking for two seats on the Access pool Joint Committee. We have noted the advice from the Scheme Advisory Board and the MHCLG draft guidance issued for consultation on 3 January 2019 and hope that the Committee will consider our request in the spirit this advice. We believe that there can only be benefit to you to have member representatives from the fund boards linked to your pool.*

*We believe that having member representation on the committee will dispel any notion that the pool is not considering the interests of scheme members. We also believe that the scheme member reps on the Pool's fund boards have demonstrated their commitment to ensuring that the LGPS works for all its employers and scheme members.*

*All current UNISON board members are trained to a high standard and are supported by senior officers who represent us on the Scheme Advisory Board.*

*We suggest that nominations are sought from scheme member reps on the fund boards and that nominations are then put to the vote by all scheme member reps.*

*This email is being copied to the other members of the ACCESS Joint Committee and to Kevin McDonald as the Director of the ACCESS Support Unit.*

*Yours Sincerely*

*Andrew Coburn UNISON Nominee to Essex Pension Advisory Board*

*Sandra Child UNISON nominated observer to Essex Pension Strategy Board*

*Judith Taylor West Sussex*

*Barbara Milton Isle of Wight*

*John Walker Membership Representative Cambridgeshire Pension Fund Committee*

*Barry O'Sullivan Member Representative Pensions Board of the Cambridgeshire LGPS Pension Fund*

*John Stokes Cambridgeshire Local Pension Board*

*Matthew Pink Unison active scheme member representative on the Cambridgeshire Pension Fund Committee*



*Lynda Walker East Sussex Board member*

*Steve Warner UNISON Nominee Suffolk Pension Fund Committee*

*Joe Parsons Kent Superannuation Fund Committee and Local Pensions Board*

*John Harries, Pensions Oversight Board Representative for Active and Deferred Members, Norfolk Pension Fund.*

*Steve Milford. UNISON elected member of the Isle of Wight Council Pensions Committee*

*Suzanne Williams Suffolk Pension Board*

## **Appendix 2: The Pensions Regulator guidance**

### **Code of Practice 14: Governance and administration of public service pension schemes**

**23. Pension board** – the scheme manager (or each scheme manager) for a scheme has a pension board with responsibility for assisting the scheme manager to comply with the scheme regulations and other legislation relating to the governance and administration of the scheme and any requirements imposed by the regulator. The pension board must also assist the scheme manager with such other matters as the scheme regulations may specify. It will be for scheme regulations and the scheme manager to determine precisely what the pension board's role, responsibilities and duties entail.

### **Investments and funding of local government schemes**

<https://www.thepensionsregulator.gov.uk/en/public-service-pension-schemes/understanding-your-role/investments-and-funding-of-local-government-schemes>

*In local government pension schemes, scheme managers are responsible for administering, investing and managing the pension fund. In almost every case this is delegated to a 'pension committee' (also known as an 'investment committee'). This is typically made up of councillors with investment experience or interest.*

*Specific investment decisions are outside the pension board's remit. However, there are a number of areas that pension boards need to look at. For example, effective investment governance arrangements need to be in place and suitably documented.*

*Scheme managers should have robust arrangements in place for managing outsourced providers and advisers. This includes investment managers and investment consultants. They should also keep appropriate records of decisions and transactions.*

*Pension boards have a role to play in advising whether the right governance and administration processes relating to funding and investments are in place.*

### Appendix 3: SAB statement on investment pool governance

At its meeting on the 16th February 2018, the SAB agreed to review the wording of the policy statement on pool governance previously published on 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.”***

## **Appendix 4: DRAFT Statutory guidance on asset pooling in the Local Government Pension Scheme**

*4.5 Local Pension Boards of pool members have a key role in pool governance, given their responsibilities under the LGPS Regulations 2013 (regulation 106 (1)) for assisting authorities in securing compliance with legislation, and ensuring effective and efficient governance and administration of the LGPS. They can provide additional scrutiny and challenge to strengthen pool governance and reporting and improve transparency and accountability for both members and employers.*

*4.6 Local Pension Boards may also provide a group of knowledgeable and experienced people from which observers may be drawn if pool members wish to include observers on pool governance bodies.*

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## **Appendix 5: CIPFA The Guide for Local Pension Boards (2018)**

*It is indisputable that the vast majority of a local pension board's work should focus on administration and governance. This does not mean that a board cannot look at investments, particularly the governance and at the processes followed. Indeed, there are examples where the expertise on boards has resulted in improvements in the quality of reporting on investment monitoring.*

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*So, in practical terms, what can a board review? Or perhaps board representatives from the different funds in a pool? This is likely to vary from pool to pool, but typically:*

- *the process for the selection, appointment and dismissal of the pool operator*
- *the arrangements for monitoring the process of the operator*
- *managing risks associated with the pools*
- *reviewing the monitoring processes established to track the costs of the pools*
- *overviewing the responsible investment and corporate governance dimension.*

*And in terms of the operator, checking that the operator has provided:*

- *audited asset valuations*
- *absolute investment performance*
- *relative investment performance*
- *attribution analysis*
- *their approach to responsible investing.*

*The above suggestions help identify a question as to the extent to which any individual board tries to undertake its own assessment of the managing of risks implicit in being a fund participating within a pool. While it is for each board to satisfy itself regarding the assurances it seeks, the related risks are also common to all funds within the same pool. There are dangers of re-inventing wheels. It would appear that there is scope for boards within the same pool liaising to establish a cost-effective way of gaining the appropriate assurances.*