

The role of CoM members within the Nominet Policy Advisory Board

Prepared by Peter Gradwell, Elected PAB Member. 13th November 2004.

The PAB acts as a forum for debate and policy making and to this end seeks to include as wide a range of views as possible. Upon reaching consensus, the PAB normally makes a recommendation to the CoM.

Following on from the 2004 Council of Management (CoM) review of PAB Governance (<http://www.nominet.org.uk/Pab/PabMeetingPapers/GovernanceReview-Pab.html>) the question of whether members of the CoM should be part of the PAB was debated:

“The options for the role of the Board's representatives on the PAB were discussed in detail. Some members felt that the Board representatives should not take part in the debate as they could dominate the debate and influence the opinion of the appointed PAB members in a formal vote. However, several of the appointed members stated that they greatly appreciated the contribution of the non-executive directors. Some agreed that it was important the PAB remained independent so if possible it would be good for the Chairman to ensure that they did not dominate the debate. A number of people were in favour of the Board representatives attending PAB meetings and taking part in the debate but not voting, but the PAB did not reach a consensus on this issue.” (*PAB Meeting Report, Oct 04*)

Typically at a PAB meeting, there are two member of the CoM plus one or two members of the Nominet Executive Team (of which the MD and Chair are also CoM members).

What is the role of a CoM member at the PAB?

At present, the non-Executive CoM members attend PAB meetings "as PAB members" who are their by virtue of their CoM position. It is arguable that they are not there to represent “the Company” (that would be the Executive Directorate’s role) but instead are there in a partially independent role. At present a CoM member is likely to represent a view formed from the wide ranging personal and corporate experience that they hold.

Should a non-Executive Director attend the PAB for “the Company”? Setting aside for a moment that this is an Executive role it may cause serious problems for corporate governance by prejudicing the independence of non-Execs. In essence, they would be expected to take the company line in one meeting (PAB), but question it independently in another (CoM), despite them supposedly being the liaison between both.

The importance of continuity

The PAB's role is to advice the CoM. One of the main purposes of having CoM members (exec or non-exec) there at all is to provide liaison between the two meetings. However good you make your minutes & resolutions; it is no substitute for having the same person there. Also, whilst the PAB having independence is a good idea, not having anyone from the CoM there makes it very difficult to put CoM discussions in context.

At present, the CoM representatives are typically consistently appointed to the PAB for their term in office. I.e. there is no rotation of CoM members on the PAB. It is felt that PAB members would like to:

- Be better acquainted with the other CoM members

- Potentially receive a wider range of views than those held by the two “permanent” appointees.

On the other hand it might be that not all CoM members have the time available to do this due to external work pressures, but also because other CoM members serve on other committees (Fay, for instance, chairs the audit committee), and would be inappropriate to rotate those positions.

Finally, having a different person from the CoM there each time may seriously damage continuity of liaison. For example, at meeting one, CoM member A turns up. He says he will take something up with the CoM. At the next meeting, CoM member B turns up. Perhaps they weren't at the CoM meeting or did not know to look out for the question, and they have no idea whether the question was asked.

Whilst it is possible to ensure progression of issues through formal minute, it is often very helpful to be able to informally enquire about an issue and know that a single point of contact is fully appraised of its status.

Should CoM members attend at all?

CoM member attendance is helpful because:

- CoM members are often aware of the practical and legal implications of policy, so any policy developed will (a) be more likely to be adopted and (b) be better formed having taken account of practicalities.
- CoM members themselves are articulate and knowledgeable persons and often contribute greatly to debate.
- CoM members provide good liaison between CoM and PAB, supporting the “policy triangle” (with the Exec) which has proven to work well.

CoM member attendance is unhelpful because:

- There is sometimes a duplication of process (CoM votes twice on an issue), or indeed, there is an inconsistency of process (good moral standpoint, but legally unworkable in the current climate).
- CoM members, because they are articulate and knowledgeable, can dominate a debate (but so can any articulate and knowledgeable person).
- With the potential for 4 members of the CoM to be at each PAB meeting, there is a general dominance of CoM members which may skew a discussion.
- The PAB’s role is to provide *advice* to the CoM, however, by taking part in a debate, CoM members tend to be arguing for being given a specific bit of advice. This can mean that the PAB may not provide completely independent advice, or indeed, that a CoM member may not be presented with all the possible options before making a board resolution.

The following points should also be noted:

- Members of the Executive Team (the MD, Chair, Technical, Operations and Finance Directorate) may be able to make a more valuable contribution to the debate, if more fully involved.
- It is generally agreed that having at least two CoM representatives (i.e. including the Exec) is helpful, but having more (3 or 4) or less (one) may not be.

Options

The options available to the PAB are as follows:

On the subject of the number of CoM & Nominet Executive representatives:

- Either (1a) Continue with 2 + Executive representation;
- Or (1b) Merge the CoM + Executive representation¹.

On the subject of CoM attendee rotation:

- Either (2a) Continue with the current arrangement;
- Or (2b) Request that CoM attendees rotate as available

On the subject of taking part in the debate and voting:

- Either (3a) If 1a is accepted, then continue with the current arrangement (CoM vote, Exec not).
- Or (3b) If 1b is accepted, then request that CoM attendees take part in the debate and vote.
- Or (3c) Request that CoM attendees do not vote, but do take part in the debate.

There is one final option, which is to not invite CoM members, but instead liaise solely with the Executive team.

For information:

- Option **1a+2a+3a** would represent a *status quo*;
- Option **1b+2a+3c** would provide consistency of *liaison, full participation* in the debate for both executive and non-executive CoM members, whilst ensuring that any PAB *voting was done independently* of the CoM.

¹ If we merge the CoM and Executive representation then the PAB Chair would still have discretion to invite advisors as required.

Draft Resolutions

The following draft resolutions are proposed to support the options given above:

To support option 1a:

The PAB resolved to recommend that the CoM should continue to appoint two of the non-Executive CoM members to attend PAB meetings and that it would continue its policy of requesting the PAB Chair invite members of the Executive team to inform debate as required.

To support option 1b:

The PAB resolved to recommend that the CoM should appoint two of the CoM members (either elected or executive) to attend PAB meetings and that normally, no additional Nominet executive team members would be invited.

To support option 2a:

The PAB resolved to recommend that the CoM should normally nominate its PAB attendees on a fixed basis for the period of their CoM appointment.

To support option 2b:

The PAB resolved to recommend that the CoM should rotate, as far as is practically possible, its PAB attendees for every PAB meeting.

To support option 3a:

The PAB resolved to recommend that CoM attendees should continue to fully take part in the discussion and vote on PAB resolutions, whilst Nominet Executive staff should be present only to inform the discussion.

To support option 3b:

The PAB resolved to recommend that CoM attendees (Nominet Executive Staff and non-Executive CoM members) should continue to fully take part in the discussion and vote on PAB resolutions.

To support option 3c:

The PAB resolved to recommend that CoM attendees (Nominet Executive Staff and non-Executive CoM members) should continue to take part in the discussion but should not vote on PAB resolutions.