



British
Private Equity &
Venture Capital
Association



Limited Partner Advisory Committees

BVCA Perspectives Series

Authored by the BVCA's Limited Partner Committee
and Investor Relations Advisory Group



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The BVCA Perspective Series is compiled in co-ordination with General Partners (GPs) and Limited Partners (LPs) to stimulate debate within the broader GP and LP communities. In recognition of the fact that the private equity and venture capital industry is broad and funds are not homogeneous, the perspectives are not statements of a BVCA policy, nor are they intended to be prescriptive.

Limited Partner Advisory Committees (LPACs) are formed for the purpose of advising the GP on specific issues during the lifetime of a fund, including conflicts of interest and material changes to the governing documents of the fund where LPs' consents or approvals are required. GPs may also selectively consult with their LPAC in order to obtain LP opinions on operational or investment-related matters.

The BVCA's Investor Relations Advisory Group and Limited Partner Committee, along with practitioners and advisers from across the BVCA, have worked together to further develop and clarify the role and purpose of the LPAC, as well as outline the process and structural considerations for managing the LPAC to encourage discussion and dialogue in this area.

The role of the LPAC is governed by the fund's constitutional documents, which vary from fund to fund, in particular in relation to the extent that an LPAC can approve certain conflicts and other governance matters. There is a range of views among LPs and GPs as to the appropriate scope of the LPAC's role, and there is not one established market position.

Our key thoughts are summarised below and focus on three principal areas:

1. Role and purpose of the LPAC
2. Structure of the LPAC
3. Organising LPAC meetings

The role and purpose of the LPAC

The role of the LPAC is considered predominantly to have an advisory and consultative function (rather than a decision-making function) to the GP¹. Whilst some are not set-up in this way, there is a growing view that LPs and GPs want LPACs to become an advisory/consultative body.

As LPs do not have a fiduciary duty to fellow LPs, the LPAC should not generally be responsible for imposing decisions and, although in principle it is designed to provide views that are representative of the broader LP base, it does not act on behalf of all LPs. Current market practice, however, generally allows certain proposals of the GP to be approved by the LPAC, rather than requiring them to be put to a full vote of all the LPs.

An LPAC should advise the GP in certain situations where a conflict of interest has arisen or there is a material change to the fund relating to the Limited Partnership Agreement (LPA), such as, for example, fund extensions, fee breaks and key man clauses.

When a decision is required, the GP typically consults with LPAC members for their views and then either seeks their consent or looks to seek approval from the whole investor base via a vote. LPs and GPs should consider carefully which, if any, decisions of the GP should be subject to LPAC consent and which should be subject to a full vote.

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¹See also [Institutional Limited Partners Association Principles, v. 2, 2011](#)

Decision-making should not generally be devolved to the LPAC for issues of fundamental importance to the operation of the fund, which in our view would include, for example, key man replacement. In practice, however, there may be certain decisions where it may not be practical for all LPs to be involved in the approval process (e.g. where the matter is time critical or so complex that it would require LPs to devote significant resource to evaluate the matter) and so an element of decision-making, in particular where there is a wide investor base, may be inevitable, although this should be the exception rather than the rule.

GPs and LPs have a responsibility to disclose conflicts of interest, and the discussion and management of this is an appropriate subject for conversation at LPAC meetings. Conflicts of interest tend to arise, for example, as GPs may have holdings of the same company in different funds or personal shareholdings. There is also an expectation that conflicts of interest are likely to arise more frequently given the trend towards GPs selling stakes in their management companies to LPs, and the occurrence of LPs holding large co-investment positions in portfolio companies. There is precedent in such cases for the GP to set up a conflicts committee specifically to cater for situations as outlined above, and is considered best practice.

Structure of the LPAC

Ideally the composition of the LPAC will be representative of the investor base. Commitment size, however, continues to be the major determinant of a seat on the LPAC, and requests from larger LPs to be on the committee often result in the structure of the LPAC being an imperfect reflection of the broader investor base. This is an increasingly prevalent issue with certain categories of investor, such as sovereign wealth funds and state pension plans.

Whilst it is acknowledged that (a) it is efficient for a GP to have its largest LPs on the LPAC as between them they will likely have a material percentage of the votes, and (b) there needs to be some size restriction on the LPAC, it would be valuable to broaden the composition across different LP types (by size, geography, type etc). The following structural options are shared as solutions for consideration:

- As well as including the largest investors, LPACs should include a small number of investors who do not qualify by virtue of size but bring a valuable perspective to the board;
- Some rotation of LPAC seats among a broader group.

The use of observer seats should be carefully managed, particularly for large funds with large LPACs, where adding observers to the board can be unwieldy.

Stipulating certain levels of attendance for LPAC members is considered a useful tool to ensure ongoing active participation (both regarding consistent attendance by an individual as well as for the investing institution) to ensure good continuity and historic knowledge. The LPA may contain a mechanism for the removal of an LPAC member on the basis of not attending meetings with appropriate frequency.

In practice, participation by telephone tends to be sub-optimal and it is advisable that LPAC members are present in-person where feasible.

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Organising LPAC meetings

GPs and LPs should undertake seriously their obligation to prepare for and participate actively in LPAC meetings. For the purposes of objectivity and coordination it is advisable that an LPAC member is appointed as Chairperson of the committee. Some GPs periodically rotate the Chairperson to share workload and further enhance objectivity.

LPAC meetings will typically be held once a year at a minimum, with further meetings held on an as-needed basis. An agenda and relevant materials should be circulated well in advance.

Conflicts or issues arising between LPAC meetings should be handled carefully. The GP will typically contact each LPAC member individually to apprise them of the particular situation. It is advisable that this contact is not a substitute for an actual meeting. It is incumbent upon GPs to build trust and transparency through the manner in which they communicate and seek to resolve conflicts including giving LPAC members time to consider their position as well as to receive materials in advance of a meeting.

If appropriate, Limited Partners should declare any conflicts of interest at the start of the meeting. LPs on the committee may receive sensitive information which should, until decided otherwise, remain confidential. This will either be dealt with in a next step or covered in minutes sent to other LPs.

The increasing prevalence of in camera sessions at LPACs is a positive development, although these sessions need to be well-structured, specifically:

- *In camera* sessions benefit from an LP chairperson;
- To solicit a broad range of views.

It is advisable that a summary of points discussed at LPAC meetings and the results of any matters voted on is submitted to all LPAC members on a timely basis, submitted for approval at the following LPAC meeting and made available to all Limited Partners (including the minutes).

Where there are common matters to be covered (e.g. updates on team, performance, market), it is beneficial to have a broader session for the LPACs of multiple funds managed by the same GP. Each LPAC for each individual fund, however should operate autonomously with regard to matters pertaining to such fund (e.g. valuations review, consents).

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