1 - Email - December 15 2016 - Draft report - Outline v 2.pdf

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Subject:	Draft report - Outline v 2
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Attachments:	PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v2.docx

All,

So I was not joking when I said that I considered "end of day" to be 11:59pm.... (EST!) In fact I'm 20 minutes early...

Please see attached the draft report - outline v 2, which is substantially more filled out, and hopefully captured all the key points of the panel conversations. I have left a number of comments where I am specifically seeking input, but of course please provide input on all aspects of the draft report. Particularly if there are any additional perspectives or thoughts that should be addressed based on outcomes from the meeting with the AG tomorrow.

It has expanded in number of pages, but this is because I put it all in arial 12pt font as instructed by Comms.

Regards,
Lucy

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PENSION ASSET EXPERT ADVISORY PANEL REPORT Dr.pdf

PENSION ASSET EXPERT ADVISORY PANEL

[DRAFT] REPORT

[NTD - o/s Cover letter? (including mandate summary)

Executive Summary]

Mandate of the Panel

- Pension Asset Expert Advisory Panel (the Panel) was formed to address
  - The requirement regarding control with respect to recognizing a pension asset for a joint defined benefit plan
  - The requirement regarding control with respect to recognizing a pension asset for other pension plans
  - Appropriate valuation techniques to measure a pension asset that take into consideration future decision making authority by plan sponsors
  - Recommendations to the Employee Future Benefits Task Force of the Public Sector Accounting Board regarding issues that should be considered in its review of the retirement and post-employment benefits standards.

- Looked at recognition and measurement of pension assets arising in certain jointly sponsored pension plans (specifically, the Ontario Teachers' Pension Plan (OTPP) and the Ontario Public Service Employees' Union Pension Plan (OPSEUPP), collectively the "Plans") in accordance with Canadian public sector accounting standards (PSAS).

- The recognition and measurement of pension assets arising in other plans, such as the Healthcare of Ontario Pension Plan (HOOPP) and the Colleges of Applied Arts and Technology Pension Plan (CAATPP) will be covered in a later supplemental report that considers the different attributes of these plans

Nature of the pension plans examined

- Pension plans are not all alike. Each pension plan has distinct contractual and other arrangements that must be considered in assessing the accounting for that plan.
- The relevant legislative acts and contractual arrangements governing the Plans that were considered by the Panel are listed in Appendix A.
- While the Provincial Government has the legislative ability to change the relevant Acts, it has also entered into contractual arrangement with the employee sponsor(s). For accounting purposes the existing contractual agreements are past transactions and are used for assessing existing rights and powers under the arrangements. Changes to the contractual arrangements (or a government's ability to set aside a contract using sovereign power) are not considered unless, or until, any such change were to become effective.
- Under pension legislation, there are several categories of defined benefit plans. Jointly sponsored pension plans are a separate category from single sponsor plans or multi-employer plans and have different regulatory requirements.
- Similarly, under PSAS there are several categories of defined benefit plans, which include joint defined benefit pension plans (JDBPs) as a separate category from single sponsor or multi-employer plans.
- In JDBP's a government shares the risks and rewards of a defined benefit plan with plan participants, represented by a sponsor or sponsors. The key characteristic of a JDBP is that there is a formal agreement between the sponsors which established that the sponsors have shared control over the plan. By definition, neither sponsor has unilateral control over the plan, as joint control (shared decision making) is an inherent requirement for a JDBP.
- Other characteristics of JDBPs include:
    - Funding contributions are shared mutually between the government and plan members
    - The sponsors have control over decisions related to the administration of the plan and the level of benefits and contributions on an ongoing basis based on the terms of the contractual agreement
    - The sponsors share, on an equitable basis, the significant risks associated with the benefit plan.

- Historically, OTPP was a single sponsored plan until 1992 when it was converted to be a jointly sponsored pension plan and became a joint defined benefit plan for accounting purposes. OPSEUPP was carved out of the Public Service Pension

Plan (a single sponsor plan) in 1995 and established as a jointly sponsored pension plan and joint defined benefit plan for accounting purposes.

- The motivation for making these changes was so the Provincial Government could transfer a share of the risks of the obligation to the members of the plans. In return for taking on a share of the risk of the obligation, the members received an equitable share of any surplus in the plan (both the upside and downside of plan performance are equitably shared) and the member Sponsors received the right to participate in shared control of the plan, meaning both parties to agree to significant plan decisions such as plan structure, benefits available under the plan, contribution rates, funding levels and other policy decisions.
- As both the funding risk and rewards and the governance of the plan are shared between the employer sponsor(s) and the employee sponsor(s) the move from a single sponsored plan to a jointly sponsored plan was considered to be a fair deal for both sides while achieving a public policy aim or reducing the risk of the obligation to the Provincial Government.

Commented [LD1]: This was the language in my notes, but perhaps there is a better way of phrasing this?

- The fundamental difference between single sponsor defined benefit plans and joint sponsor defined benefit plans is that the control that a single sponsor would have over setting contribution rates and benefits has been replaced with joint control over those decision. The sharing of the risks and rewards of the pension plan on an equitable basis is consistent with the sharing of control over those policies that influence the outcomes of the pension plan.

OTPP – Structure and organization

Sponsors

- The OTPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Minister of Education and Training) as the employer Sponsor and the Ontario Teachers' Federation (represented by its Executive) as the employee Sponsor. The partnership agreement between the joint sponsors sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OTPP is also a multi-employer plan, but these employers are not sponsors.

Decision making

- The OTPP Board is appointed by the joint sponsors and is responsible for the administration of the pension plan, such as investment of assets, payment of benefits, preparation of pension valuations and managing the pension fund.

- The Board does not make any fundamental decisions regarding benefits and contributions as these decisions rest with the joint sponsors' Partners Committee, to which an equal number of representatives are appointed by each sponsor.

Funding arrangements

- The basic funding arrangement in the Teachers' Pension Act is that the employers' contributions shall not exceed those of the members.
- Historically, the Employers have matched the members' contributions, based on the members' contributions in a previous year. This has results in contributions being made typically on a 50:50 basis between employers and members (except where specifically agreed otherwise).
- The contractual arrangements require that an actuarial valuation for funding purposes is prepared at least once every three years to comply with the *Pension Benefits Act*. This actuarial valuation is required to actuarially balanced – meaning that the benefits and costs to be paid from the fund plus any contingency reserve equals the present value of the members and employers contributions and special payments. A preliminary valuation is prepared based on the existing terms of the plan but to the extent that this preliminary valuation is not actuarially balanced the joint sponsors must negotiate and agree what changes to the plan must be made in order to reach an actuarially balanced valuation that will be filed. This process means there is no funding surplus or deficit in the final funding valuation.
- The changes to the plan agreed upon by the joint sponsors could be to increase or decrease contributions for employers and/or members or to improve benefits payable to members. Negotiation must be made in good faith and if an agreement is not reached within a certain time frame a mediator may be appointed by the joint sponsors, and, if necessary a board of arbitration.
- The joint sponsors have agreed to a Funding Management Policy (FMP) which, although not binding, sets a framework for the sponsors to negotiate the use of any funding surpluses or deficits. The FMP clearly indicates that above a certain funding range the sponsors can negotiate to lower contributions or provide temporary or permanent benefit enhancements.
- The OTPP plan text does not limit the outcomes of the negotiation between the joint sponsors. There is no minimum level or fixed range of contributions by members or employers that cannot be changed through the required negotiations.

Commented [LD2]: Note, it is actually the "year before the preceeding year" to two years previous. Did not think it necessary to get into this detail, but it is why it says "a" previous year not "the" previous year.

OPSEUPP – Structure and organization

Sponsors

- The OPSEUPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Chair of the management Board of Cabinet) as the employer Sponsor and the Ontario Public Service Employees' Union as the employee Sponsor.
- The joint sponsors established a trust (OP Trust) and the declaration of trust between the joint sponsors and the trustees of OP Trust sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OPSEUPP is also a multi-employer plan, but these employers are not sponsors.

Commented [LD3]: Confirm this is correct. Sponsor agreement states it is a single employer plan, but other parts of the plan text indicates that it is multi employer with crown corps etc.

Decision making

- The Trustee Board administers the plan and an equal number of trustees are appointed by each of the Provincial Government and OPSEU.
- The Trustee Board votes on resolutions by majority vote. This means that trustees representing both the Provincial Government and OPSEU must agree. In the case of a deadlock there are agreed upon procedures to determine a temporary 11th trustee, as agreed by both the sponsors (or, if necessary, appointed by the Chief Justice of Ontario).
- The trustees are responsible for the administration of the OPSEUPP including the investment of assets, payments of benefits, receipt of contributions, preparation and filing of actuarial valuations in accordance with the Pension Benefits Act
- The trustees have no power to amend the plan or the trust agreement. All decisions regarding contribution levels and benefits to be provided under the plan are the responsibility of the sponsors
- Amendments to the trust agreement, plan text and sponsorship agreement require unanimous written consent of the sponsors.

Commented [LD4]: I'm not clear on whether this is an administrative Board or a representative Board – please advise.

Funding arrangements

Commented [LD5]: Panel to confirm this is an appropriate summary

- The basic funding arrangement in the OPSEUPP text is that employers match the contributions of the members.
- Funding zone agreements
- Limits (or lack thereof) on negotiation of contributions set by plan text

- The plan text clearly states that no amount of surplus shall be paid out of the plan to the Provincial Government or any participating employer. However, it is also clear that contribution reductions are not considered to be a pay out of surplus.
- Any net actuarial gains that arise (after funding certain specific transitional liabilities) are to be used equally for the benefit of employers and OPSEU. Specifically, 50% of the gain may be collectively bargained and used to the benefit of the employers, and 50% of the gain may be collectively bargained and used for the benefit of plan members. There are no restrictions on how each party bargains the use of their surplus. There is no minimum level or fixed range of contributions by members or employers that cannot be changed by agreement of the joint sponsors or through the use of their respective surplus portions.

Commented [LD6]: Check wording against plan text – o/s to find reference.

Panel view

Both OTPP and OPSEUPP have been accounted for as joint defined benefit plans in the Public Accounts of Ontario accordance with PS 3250 since that standard was issued in 2001.

The panel agrees with the accounting classification of both plans as joint defined benefit plans.

Determination of relevant accounting guidance

- The accounting analysis is performed under Public Sector Accounting Principles (PSAS) as issued by the Canadian Public Sector Accounting Board.
- PSAS provides sources of guidance in determining appropriate accounting principles in PS 1150. First must follow any specific standard that relates to the issue under consideration (apply every source of primary GAAP). In this case, PS 3250, *Retirement benefits* is a standard that relates to the accounting for defined benefit pension plans. Further, PS 3250 also defines and contains guidance specifically on joint defined benefit plans.
- If a primary GAAP source, such as PS 3250, is not clear the government would develop an accounting policy considering other standards within PSAS and Section 1000, *Financial Statement Concepts*.
- A government may also refer to accounting guidance in other GAAP frameworks as long as consistent with PSAS standards and Section 1000 above.

Panel View

- The Panel considered the guidance in PS 3250.
- In addition, the panel noted that there were some areas where PS 3250 is not clear with respect to how the guidance in PS 3250 applies to JDBPs. In these cases the panel referred to relevant other guidance, as identified in the analysis below.

Recognition issues

1) Application of Defined Benefit accounting to Joint Defined Benefit Plans

- PS 3250 Paragraph 81states “When a government participates in a joint defined benefit plan, the government's risk is limited to its portion of the plan. The government should account for its portion of the plan in accordance with the standards for defined benefit plans”.
- The panel discussed two possible interpretations of how this guidance is to be applied to JDBPs:
    - Interpretation A) Divide the plan between the sponsors’ respective portion, and the government applies the guidance on Defined Benefit plans in PS 3250 only to their portion;
    - Interpretation B) The government applies the Defined Benefit guidance in PS 3250 to the plan as a whole using and then recognizes only its portion of the plan in its financial statements
- The interpretation of this paragraph affects the perspective through which the asset recognition guidance in PSAS and the guidance on defined benefit plans in PS 3250 is applied (to the plan or the government’s portion of the plan).
- For example, under interpretation A, dividing the plan first would entail measuring plan assets at the government’s share, determining the accrued benefit obligation at the government’s share and then applying the valuation allowance to any net accrued benefit asset that arises.
- Under interpretation B, the assets and accrued benefit obligation amounts for the whole plan are measured in accordance with PS 3250. The valuation allowance guidance is applied to any accrued benefit asset that arises on the plan as a whole. The government then calculates its portion of the accrued benefit asset, net of any valuation allowance in determining the amount of asset to recognize in the Public Accounts.

- Interpretation B is, in the view of the Panel, a more appropriate answer because it aligns most closely with the concepts of Defined Benefit accounting in PS 3250 and with the economic substance of joint defined benefit plan arrangements.
    - Defined Benefit plan accounting in Financial Statements is based on a *net* amount of plan assets less accrued benefit obligations. Rather than presenting plan assets as "Assets" of the government and plan liabilities as "Liabilities" of the government these are presented as a net asset or liability, which reflects that the plan is a separate entity. This accounting is more similar to an "equity method" of accounting which reflects the sponsor's interest in the net assets (or net liability) of a plan than to a proportionate consolidation accounting. Therefore it similarly is appropriate to calculate the net assets (or liabilities) in the plan in accordance with accounting standards before determining the sponsor's portion of the plan.
    - The fundamental difference between a single sponsor plan and a joint defined benefit plan is in the latter control is shared and a sponsor has only a portion of the risks and rewards. It would be consistent to calculate the plan net asset or net liability in the same manner as for single sponsor plan – on a whole plan basis – before accounting for the shared control distinction by determining what is the government's portion that net asset or net liability.
    - The contractual arrangements between the Sponsors affect the plan as a whole because there is joint control over the plan as a whole and not unilateral control by each sponsor over their portion of the plan. For example, there is one funding policy, one Partners' agreement (OTPP) or sponsorship agreement (OPSEUPP), one plan text and so on that govern the respective plans. A determination of the assets and the liabilities can only be made with reference to the plan as a whole. Therefore it also follows that other aspects of the guidance for accounting for defined benefit plans, such as the valuation allowance guidance, should be applied to the plan as a whole prior to determining a government's portion. This may be particularly important when the portion is determined on an equitable basis, but not necessarily an equal (50:50) basis
    - An important characteristic of JDBPs is that there is an equitable sharing of the plan which applies to both risks and rewards and is the underlying business rationale for a JDBP. It would not be an equitable sharing for a sponsor to have only an obligation for a net liability without any access to a net asset position. One of the implications of Interpretation A is that the sponsors might recognize a liability for their portion of a net liability but be unable to recognize an asset for their portion of a net asset. In the view of

the Panel would not faithfully represent the underlying risks and rewards of the arrangement.
  - The Panel believes that if the PSAB had intended joint defined benefit plans to apply the valuation allowance guidance for defined benefit plan accounting only to a portion of the plan they would have provided additional guidance as to how this should be performed.

Application to OTPP and OPSEPP

- The OTPP plan states that the risks [and rewards] are shared between employers and members on an equitable basis, which has historically been on a 50:50 when considered over the long term.
- The OPSEUPP plan indicates that any actuarial gains are allocated to the employers and members on a 50:50 basis and then this portion may be utilized by that party as they determine over time. This means that members and employers could utilize their gains at different times, as historically has been the case. This means that the portion of any net asset that relates to the government's share may fluctuate as a percentage of the total net asset balance and may not result in the government having a 50% portion of the net asset at any one time.

Panel View

The Panel believes it is appropriate to apply all aspects of the guidance for accounting for defined benefit plans in PS 3250 to a JDBP prior to determining the government's portion of that plan for recognition within the financial statements.

2) Definition of an asset – Is there an economic resource

- Under PSAS an assets are defined as "economic resources controlled by a government as a result of past transactions or events and from which future economic benefits are expected to be obtained".
- The resource in question is the accounting accrued benefit asset that arises from applying the accounting guidance in measuring plan assets and the accrued benefit obligation, including the provisions regarding the deferral of unamortized gains or losses. The accrued benefit asset may be very different from any funding surplus calculated under an actuarial valuation performed for funding purposes. Funding valuations may use different actuarial methods and assumptions, such as a provision for adverse deviations. However, under

accounting standards it represents the best estimate of the accrued benefit obligation and the fair value of the plan assets, as adjusted for the permitted deferral provisions. Notwithstanding there is a degree of measurement uncertainty regarding both the measurement of the plan assets and the accrued benefit obligation, PS 3250 – the primary source of GAAP for retirement benefit plans – clearly requires that such an asset is recognized for a single sponsored plans. Consistent with the discussion in 1) above, for JDBP plans these requirements are still applicable and this asset should be considered in the context of the plan as a whole, prior to determining what portion of the asset (if any) is the government's share.

- The recognition of an accrued benefit asset for accounting purposes is then subject to the measurement provisions of the valuation allowance guidance (See section on "Measurement" below).

- In addition to the requirement of PS 3250 to recognize an accrued benefit asset, the Panel also noted the following guidance indicates that an accrued benefit asset in a JDBP represents an economic resource that gives rise to future economic benefits:
  - PSAS provides additional guidance on economic resources and future economic benefits in PS 3210, *Assets,* which is effective from April 1, 2017. An economic resource embodies value because it enables an entity to meet its objectives, such as the provision of public goods and services, redistribution of wealth, generation of cash inflows or reduction of cash outflows. An accrued benefit asset in a pension plan is a resource because it can be used to generate future benefits. This view is confirmed by guidance in IPSASB 39.67
  - The economic resource (plan surplus for accounting purposes) can provide future economic benefits to the joint sponsors in the form of a reduction of cash outflows in the future because it can be used to reduce future contributions, as long as the sponsors are expected to be able to access those future contribution reductions (3210.04(a)). This view is confirmed by guidance in IPSASB 39.67
- In a joint defined benefit plan, the sponsors form a control group. When looking at whether the sponsors can access future contribution reductions or a withdrawal of surplus in meeting the asset definition for the plan as a whole the rights of the sponsors collectively should be considered.
- There is considerable case law in Canada addressing single sponsor plans and the ability of that sponsor to either withdraw surplus from the plan or take contribution holidays. Critical to assessing the ability of the sponsor to withdraw

Commented [LD7]: We discuss this access in detail a bit later on.
To consider flow and placement of support some more when drafting final report.
This thought is not quite well enough supported here.

Commented [LD8]: To Panel: In fleshing out the first section, I felt that these items did not fit well in the "nature of pension plans" section, so suggest moving them here as they relate to the recognition issues. However, would like feedback on whether this revised flow works or these should be moved back.

surplus or take contribution holidays is the plan text; clear rights within the plan text can support the sponsor's right to withdraw surplus or take contribution holidays. However, when the plan text is not clear, there may be legal uncertainties as to whether the sponsor "owns" the surplus. Withdrawal of surplus by the sponsor is generally subject to regulatory and legal hurdles, such as either approval by the Financial Services Commission of Ontario approval with a court order an arbitration award or an agreement between employer and members for any surplus withdrawal. Therefore under case law it is generally considered that a sponsor does not have a legal right to withdraw a surplus until these hurdles have been passed, unless there is a clear right in the plan text.

- Conversely, if the plan text is not clear on the right of a sponsor to be able to reduce contribution, generally Canadian case law would support that the sponsor has the right and ability to utilize surplus through contribution holidays.
- An analysis of the plan documents for OTPP and OPSEU indicate that in both plans the sponsors negotiate and agree on contribution rates. This means that collectively the sponsors can exercise their shared control to reduce future contributions to the plan and access their portion of the economic resource in the form of future economic benefits. In the case of OTPP the government can benefit from the economic resource through the negotiation process over contributions required to make the actuarial valuation actuarially balanced. Similarly the government can benefit from any OPSEUPP asset through their ability to bargain their 50% of any actuarial gains.

- PS 3320 applies to contingent assets which are defined as "possible assets arising from existing conditions or situations involving uncertainty. That uncertainty will ultimately be resolved when one or more future events not wholly within the public sector entity's control occurs or fails to occur. Resolution of the uncertainty will confirm the existence or non-existence of an asset". The implication of a contingent asset is that it is not recognized in financial statements. An accrued benefit asset is not an uncertain economic resource. While there is measurement uncertainty regarding the measurement of an accrued benefit asset due to the necessity of making a number of assumptions regarding demographic and financial actuarial assumptions as well as fair values of plan assets, there is no uncertainty as to whether the plan exists, and therefore over the underlying existence of any estimated accrued benefit asset as an economic resource. PS 3320 notes that "The mere fact that an estimate of an amount is involved (measurement uncertainty) does not, in and of itself, constitute the type of uncertainty that characterizes a contingent asset". The extent of the economic resource become clear as measurement uncertainty is resolved not as future events occur or fail to occur. As such, PS 3320 is not a

Commented [LD9]: Question for Murray – is this in the right place?
This sentence was in the bulleted draft, however, not clear whether this relates only to legal uncertainties over the surplus (i.e. withdrawal) or is a more general comment covering contribution holidays. If the latter then it should be moved somewhere else.

relevant source of guidance in considering whether an asset exists in respect of an accrued benefit asset.

Panel view

The accounting asset meets the definition of an economic resource because the accrued benefit asset exists and future benefit is available to the sponsors in accordance with the plan documents. There is no existence uncertainty regarding the net pension asset.

3) Definition of an asset - Control

- The definition of an asset under PSAS requires that an economic resource is controlled by a Government. PS 3210.16 expands on this control requirement noting that control exists when a government can benefit from economic resource, when they can deny or regulate access to the resource, and when they are exposed to risks associated with the economic resource.
- An accrued benefit asset in a joint defined benefit plan still meets the asset definition from the perspective of a joint sponsor as the joint sponsor is exposed to risks associated with the resource as they are exposed to risk of plan surplus changing from a change in actuarial assumptions. The government sponsor may also regulate access to the resource because joint control means that they must agree to any changes to the plan text or contractual arrangement and as such can deny the other sponsor access to the resource to the extent that joint decisions must be made over the use of the asset.
- As noted above in the case of OTPP and OPSEU the government can benefit from the economic resource.
- Shared control means that there is control, but that control over the plan as a whole is exercised through the joint sponsors as a control group. The contractual arrangements for OTPP and OPSEUPP set out how that joint control is exercised, including how surpluses and deficits are dealt with. In the context of PS 3250, the defined benefit guidance is to be applied to each plan, and then the members of control group each pick up their share. This shared control relationship contrasts with participating employers that are not part of the control group, as those employers do are not able to regulate or deny access to the plan assets and therefore cannot control access to the economic resource of a net plan asset.
- By definition, a joint sponsor of a JDBP does not have unilateral control or unilateral rights to the surplus of a JDBP. Instead there is an agreed upon, pre-determined process, with certainty that a conclusion on the use of any surplus

will be reached and with the expectation that the outcome of the process will be an equitable sharing of any surplus, as equitable sharing is a key characteristic of a JDBP.

- There are other examples in PSAS where joint control results in asset recognition. PS 3060 requires asset recognition for government business partnerships subject to shared control using the modified equity method. Similarly, PS 3060 requires proportionate consolidation for other government partnerships, which results in a government recognizing a proportionate share of the capital assets held under joint control, for example, even though the government cannot control the use of that asset unilaterally. If a jointly controlled asset cannot meet the recognition criteria for an asset then it would logically follow that no investments in government partnerships could be recognized. As it is, such assets are recognized by governments applying PSAS in their public account. The same logic that shared control can still result in asset recognition should apply to a pension asset of a JDBP.
- PS 3250 does require that there is an existing legally enforceable right to withdraw a surplus. This does not mean that there has to be a legally enforceable right to reduce contributions to the plan in the future in order to have control of the economic resource. Under pension law, withdrawal of pension surplus have different legal characteristics from contribution holidays. The former requires that assets already paid into a trust and for which no claim is clearly retained in the plan document, is reclaimed. The latter, which is also a form of economic benefit, requires that assets are not paid into a trust in the future and that the existing claim on those assets is not given up by the sponsor. This is a distinction established in law, and in the view of the Panel, the requirements of PS 3250 paragraph 59 are intended to be applied to the more complex legal context of surplus withdrawal, rather than a broader context of contribution holidays.

Panel view

Unilateral control is not a requirement for asset recognition. An asset subject to joint control can still be recognized under PSAS. The joint sponsors jointly control the net pension asset, and can recognize an asset relating to their portion of that jointly controlled asset.

Panel View - Recognition

PS 3250 requires the *recognition* of an asset for the government's portion of the plan surplus for both plans.

Those assets may require a valuation allowance. The measurement of those assets is addressed in the next section.

Measurement issues

Overview of guidance on measurement of an accrued benefit asset

- A primary source of GAAP should apply if it exists. PS 3250 paras 50-59 provides guidance on measuring any accrued benefit asset that results when the plan assets are measured at an amount greater than the accrued benefit obligation. As the guidance on defined benefit plans is applied to JDBPs prior to the government recognizing its portion of the plan, the valuation guidance should also be applied to the plan as a whole, prior to the joint sponsors recognizing their portion of the result.
- If applying the guidance in PS 3250 results in an amount of an accrued benefit asset for the plan after a valuation allowance has been applied, if necessary, then by definition this amount equates to the expected future benefit that the sponsors can access in the plan and would be eligible for asset recognition in the books of the joint sponsor.
- PS 3250 defines an accrued benefit asset as “the amount of any asset recognized on a government's statement of financial position in respect of employee retirement benefits before deducting any valuation allowance that may be required. It is the sum of the government's accumulated cash contributions less the sum of the current and prior years' benefit expenses (before any change in the valuation allowance).”
- Accrued benefit asset is adjusted for any net unamortized losses, if any, before testing for the valuation allowance to give the adjusted benefit asset. “Adjusted benefit asset is an accrued benefit asset less the amount, if any, by which the aggregate of any unamortized actuarial losses exceeds the aggregate of any unamortized actuarial gains.” This is because the net unamortized losses will unwind automatically overtime based on the accounting model in PS 3250. No adjustment is made for net unamortized gains as these would only increase the accrued benefit asset. In the case of OTPP and OPSEUPP there are net unamortized gains, and so the accrued benefit asset equals the adjusted benefit asset.
- PS 3250 requires that the expected future benefit is compared to the adjusted benefit asset
- PS 3250 specifies how the expected future benefit is to be calculated:
  A government determines its expected future benefit as the sum of:

a) the present value of its expected future accruals for service for the current number of active employees, less the present value of required employee contributions and minimum contributions the government is required to make regardless of any surplus; and

b) the amount of the plan surplus that can be withdrawn in accordance with the existing plan and any applicable laws and regulations.

1) Impact of legally enforceable rights on calculation of expected future benefit amount

- PS 3250 uses the phrase “expected future benefits”. This language indicates that future benefits only have to be expected, they do not have to be certain. Under the standard there are two ways that expected future benefits may be realized – through the withdrawal or surplus or through using the surplus to fund the expense of benefits earned by members in future period – that is, paying lower contributions into the plan in the future, often referred to as a “contribution holiday”.
- The panel did not put any emphasis on expected future benefit arising from withdrawal of plan surplus, as the Provincial Government does not expect to benefit from surpluses through a withdrawal, and there is no explicit right for the sponsors to claim a withdrawal from the plans. In fact OPSEUPP explicitly states that the sponsors are not entitled to have any surplus paid out of the plan, and both OTPP and OPSEUPP plans state that upon wind up any surplus must be used to the benefit of members.
- PS 3250 paragraph 52 notes that the expected future benefits may be impacted if a government is not entitled to benefit fully from those expected future benefits or there are uncertainties as to the legal right to use a plan surplus. Such limitations might occur when there is an explicit restriction in the plan text that employers must always match the members’ contributions, which might limit the government’s entitlement to benefit fully from future reductions in contributions. However, in the OTPP there is no such restriction. The government match to members’ contributions required by the Teachers’ Pension Act is to a maximum of the members contributions. The current arrangement that the employers match a prior years’ contribution level by members is by agreement of the joint sponsors and may be changed in the future as part of the negotiations to create an actuarially balanced funding valuation. Similarly, for OPSEUPP the plan text agreed to matching employer/member contributions, but this may also be changed through the exercise of shared control with the other joint sponsor.
- Ultimately, all the decisions regarding plan contributions and plan benefits rests with the joint sponsors and there are no legal uncertainties regarding the sponsors rights, as joint sponsors, to determine contribution and benefit levels. It is clearly laid out in the legal and contractual arrangements of both OTPP and OPSEUPP.

- PS 3250 paragraph 59 requires a legally enforceable right to exist before an expected future benefit can be recognized for a withdrawal or surplus. The Panel believes that these requirements apply specifically to the expected future benefits of paragraph 56 (b) and not to the amounts calculated in accordance with 56 (a) amounts. Each sentence, excluding the last sentence, in paragraph 59 refers to a withdrawal of assets from the plan. Legally speaking, and consistent with the plan texts of OPSEUPP a contribution holiday is not a withdrawal of surplus - these are two separate concepts.
- The last sentence in paragraph 59 does refer to changes in the allocation of surplus. OTPP and OPSEUPP existing plan documents govern the allocation of surplus or provide the process on to how to agree the allocation of surplus on an equitable basis. In the case of OTPP, there is no requirement to changes the existing allocation of surplus or the existing rights within the contractual arrangement in order for the government joint sponsor to use their existing rights under the shared control arrangement to negotiate an expected future benefit. In the case of OPSEUPP the surplus is allocated to each joint sponsor the form of their respective stabilization reserve pools

Panel View

- A joint sponsor does not have to have a unilateral legally enforceable right to reduce future contributions to have an expected future benefit under paragraph 56 (a).

2) Calculation of the present value of expected future accruals for service for the current number of active employees

- PS 3250 provides further guidance on how to calculate the present value of expected future accruals for service for the current number of active employees.
- Under this guidance, this amount is determined on a basis consistent with the accrued benefit obligation. The calculation is based on an open group , which is the idea that the current number of employees will exist for perpetuity. This is generally recognized in practice as being an appropriate assumption for the application of this test under PSAS, unless there is an expected significant change in the number of members, for example because a plan is closed to new members or because of a planned restructuring. The panel is not aware of any such changes that are expected for either OTPP or OPSEUPP.
- The guidance notes that in addition to the expected future accrual for service, the expected administrative and investment expenses to be paid out of the plan can been included, if they are not already taken into account in the expected return of assets rate.

- The Panel suggests that the Province might consider to what extent the expenses paid out of the plan could be added to the economic benefit.

3) What are the "minimum contributions the government is required to make regardless of any surplus"

Commented [LD10]: Note – this analysis does not mention the FMP and funding zones etc.
Panel to advise if this should be added in anywhere and if so, where?

- The objective of the test in paragraph 56 (a) is to determine whether a sponsor will be able to obtain expected future benefit from an existing surplus, by reducing their contributions below the expected cost of benefits for future services provided under the plan.
- The purpose of the minimum contributions test is to determine whether there are requirements that would make a sponsor continue to contribution cash at a certain level, even when there are plan surpluses, and thus make it impossible for the sponsor to obtain a reduction in cash contributions to the plan.
- For a single sponsor plan, common practice in Canada under pension legislation is to consider that the sponsor can take a contribution holiday unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan. The Panel concludes that, following the guidance in PS 3250 that the plan is accounted for as a whole using the Defined Benefit guidance and then the government picks up its portion of the plan, a similar logic should apply to JDBPs – the joint sponsors can take a contribution holiday unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan.
- A question arises as to whether the surplus that is contemplated in the phrase "regardless of any surplus" is an accounting surplus or a funding surplus. The panel understands that in practice actuaries interpret this in practice to be funding surplus and not accounting surplus, and that if any contributions are required when there is a funding surplus these would be minimum contributions.
- There is also a question as to whether a joint sponsor can create a minimum contribution requirement on the other joint sponsor because shared control means that both sponsors must agree to any change in contribution levels, therefore absent any agreement the existing contribution levels are "fixed" and cannot be changed. However this view would not be consistent with the notion that the valuation allowance is being applied to the plan as a whole, with the joint sponsors able to collectively control the contribution levels under the plan arrangements. Equal reduced contributions for both members and employers benefit both joint sponsors
- It is relevant to note that as OTPP always requires an actuarially balanced valuation allowance to be filed, there is no funding surplus that arises, as any preliminary funding surplus must be dealt with through the negotiation process. A

funding surplus could arise prior to the filing of the next actuarially balanced funding valuation, as this must occur only once every three years. However, the joint sponsors can agree to file a funding valuation every year if they choose, to rebalance the contributions, reserves, and benefits of the plan. As the joint sponsors must agree on the contribution levels and make corresponding changes to the plan text if necessary, there are no “minimum contributions” that must be made, regardless of any surplus, as there is no minimum level of contributions that must be agreed upon by the joint sponsors. They can agree to any level of contributions as long as the result in actuarially balanced and so the level of surplus absolutely affects the contributions that are determined by this negotiation process. While it might be expected that some level of contributions will be made in the future to fund the benefits cost of future services, there is no method of determining under the contractual arrangements what this would be, given that the level is subject to negotiation and must be negotiated. As such the “minimum contributions” cannot be determined.

- Similarly, for OPSEUPP the stabilization reserves act as limit on the amount of funding surplus that accrued in the plan. Whether these stabilization reserves are used to reduce contributions or are maintained as a buffer is at the discretion of the joint sponsor. This is very similar to the ability that a single sponsor has to reduce contributions or maintain a reserve as a buffer for future changes in actuarial assumptions.

- The Panel noted that a number of calculation regarding the expected future benefit for both OTPP and OPSEU were made, based on different assumptions regarding what were the minimum contributions required under each plan. For example, scenarios included minimum contributions as the agreed upon contribution until the next mandatory negotiations in three years; minimum contributions as the currently agreed upon contributions for a longer period; and minimum contributions as the currently agreed upon contributions until certain limited on contributions under the Income Tax Act would be expected to kick in. These various views exist because the standard does not currently provide clear guidance on how to apply the definition of “minimum contributions regardless of any surplus”.

- If no expected future benefit to Gov’t sponsor, then is also no expected future benefit to joint sponsor. Does this make sense? Is this consistent with public expectations and expectations of the other sponsor?

Panel view - Measurement

- Based on the analysis of the plan arrangements for OTPP and OPSEUPP the level of minimum contributions required regardless of any surplus is lower than the present value of expected future accruals for service for the current number of active employees. All things being equal this creates headroom that could support the recognition of an amount in respect of the net pension asset of OTPP and OPSEUPP.
- Recommendations to province – be mindful that if have a funding surplus and have a legal requirement to continue to contribute could be minimum contributions.

Recommendations to PSAB Employment Future Benefits Task Force

Commented [LD11]: These are currently in no particular order. Panel to advise as to ranking?

Application of guidance to Joint defined benefit plans

- The Panel notes that the standard is not clear on how the ability to access expected future benefits should be applied in the context of Joint Defined Benefit Plans. A clarification on how the guidance in PS 3250.81 should be applied (Interpretation A or Interpretation B) would be helpful.

Minimum contributions

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that funding valuations drive decision making over plan funding including contribution increases or reductions by sponsors. However, funding valuations may result in net pension assets or liability that are very different from the accounting net pension asset or liability. This results in a lack of clarity over whether minimum contributions may be made "regardless of any surplus" and whether a sponsor will be able to access an accounting surplus when the funding surplus is much smaller, or is a funding liability. There is some difficulty in determining what are minimum contributions in the context of joint DB plans when future contributions are dependent on the funded status of the plan and negotiation.

- For example, should the minimum contributions test be based on accounting surplus or funding surplus? Is it a present surplus or can it be a projected future surplus? Additional clarity on what constitutes a “minimum contribution” could increase consistency of application of this guidance for joint defined benefit plans [and single sponsor plans?].

Deferral accounting

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that the existing deferral provisions have the potential to result in an asset being recognized on financial statements when there is no underlying economic resource. Although this is not the case for either the OTPP or the OPSEUPP, this could occur when unamortized losses exist such that despite the the fair value of the plan assets being less than the estimated accrued benefit obligation, an accrued benefit asset could still be presented. This can be confusing to users of the financial statements as it is not transparent as to the underlying economic resource of the plan. Transparency is in the public interest. and transparency would suggest that it is important to recognize all liabilities or assets that exist and not to recognize assets where there is no underlying resource that gives rise to future economic benefit. Any mechanisms used to deal with potential income statement volatility concerns should ensure that these do not result in lack of transparency on the balance sheet. [Reference to IPSAS 39]

Discount rates

- The Panel supports PSAB examining discount rates for employment benefits. The Panel understand that in the public sector a sponsor borrowing rate is often used for unfunded plans and an asset return rate is used for funded plans. An appropriate asset return rate will vary depending on how assets are invested. The discount rates used by public sector entities may also be different then the discount rates used in the Plan’s own financial statements prepared under Part IV of the CPA Canada Handbook – Accounting, resulting in significant different measurements of accrued benefit obligations for the same plan in different financial statements. This inconsistency could be confusing to users.

  The Panel observes that many more recent accounting pronouncements relating to liability measurement require that the discount rate used to measure the liability capture the risks inherent in that liability. The panel suggests that the

Employment Benefit Task Force consider whether the method used to settle an obligation should affect how that obligation is measured and how the risks inherent in the obligation are best captured either in the discount rate or in other aspects of the measurement of the obligation.

Funding valuation

- As a funding valuation may result in a funding surplus or deficit that is very different than the accounting surplus or deficit this may be confusing to some users where both measures are presented in the same document.
- The Panel believes it may be beneficial to include additional discussion in a revised standard or other material about how the objectives and assumptions in funding valuations may differ from those used in the accounting valuation and why.
- The Panel suggests that a disclosure highlighting the quantitative differences in the funding valuation compared to the accounting valuation should be made in the financial statements of pension plans and/or in the financial statements of sponsors when information on the funding valuation of a plan is also made public or available to the same users of the financial statements. This would be useful to users as it would provide additional context for both the accounting and funding valuations.

Commented [LD12]:
Is this going to far?
Otherwise, have to think about how we highlight that this recommendation is to AcSB and not PSAB/Task force.

APPENDIX A – PENSION PLAN GOVERNING ARRANGEMENTS

OTPP

- The *Teachers' Pension Act*, R.S.O. 1990, c.T.1 (Link to the Teachers' Pension Act);
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The plan text for OTPP;
- An agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Minister of Education and Training and The Ontario Teachers' Federation represented by its Executive, dated July 15, 1991, as amended (The Partners' Agreement);
- A Funding Management Policy, attached as Appendix A to the Partners' Agreement (FMP).

OPSEU

- The Ontario Public Service Employees' Union Pension Act, 1994 S.O. 1994, c 17, s.143 Sched (Link to the Ontario Public Service Employees' Union Pension Act)
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The sponsorship agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Chair of the Management Board of Cabinet and the Ontario Public Service Employees' Union, dated April 18, 1994, as amended (The Sponsorship Agreement);
- The Agreement and Declaration of Trust of OPSEU Pension Plan Trust Fund, dated October 25, 1994, as amended (The Trust Agreement);
- The plan text for OPSEUPP;
- OP Trust Funding policy.

Appendix B - Accounting references

Commented [LD13]: Current parking lot – to be completed and refined .

IPSASB 39. 67. A net defined benefit asset may arise where a defined benefit plan has been overfunded or where actuarial gains have arisen. An entity recognizes a net defined benefit asset in such cases because:

(a) The entity controls a resource, which is the ability to use the surplus to generate future benefits;

(b) That control is a result of past events (contributions paid by the entity and service rendered by the employee); and

(c) Future economic benefits are available to the entity in the form of a reduction in future contributions or a cash refund, either directly to the entity or indirectly to another plan in deficit. The asset ceiling is the present value of those future benefits

Appendix C

- Compare to BC and NB plans. Key differences here is that documents, including the contribution rates, can change if agreed upon by joint sponsors.

Commented [NT14]: o/s need to understand why the AG referred to these – is there a concern that we need to address that we have not yet.

1 - PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v2.docx

PENSION ASSET EXPERT ADVISORY PANEL

[DRAFT] REPORT

[NTD - o/s Cover letter? (including mandate summary)

Executive Summary]

Mandate of the Panel

- Pension Asset Expert Advisory Panel (the Panel) was formed to address
  - The requirement regarding control with respect to recognizing a pension asset for a joint defined benefit plan
  - The requirement regarding control with respect to recognizing a pension asset for other pension plans
  - Appropriate valuation techniques to measure a pension asset that take into consideration future decision making authority by plan sponsors
  - Recommendations to the Employee Future Benefits Task Force of the Public Sector Accounting Board regarding issues that should be considered in its review of the retirement and post-employment benefits standards.

- Looked at recognition and measurement of pension assets arising in certain jointly sponsored pension plans (specifically, the Ontario Teachers' Pension Plan (OTPP) and the Ontario Public Service Employees' Union Pension Plan (OPSEUPP), collectively the "Plans") in accordance with Canadian public sector accounting standards (PSAS).

- The recognition and measurement of pension assets arising in other plans, such as the Healthcare of Ontario Pension Plan (HOOPP) and the Colleges of Applied Arts and Technology Pension Plan (CAATPP) will be covered in a later supplemental report that considers the different attributes of these plans

Nature of the pension plans examined

- Pension plans are not all alike. Each pension plan has distinct contractual and other arrangements that must be considered in assessing the accounting for that plan.
- The relevant legislative acts and contractual arrangements governing the Plans that were considered by the Panel are listed in Appendix A.
- While the Provincial Government has the legislative ability to change the relevant Acts, it has also entered into contractual arrangement with the employee sponsor(s). For accounting purposes the existing contractual agreements are past transactions and are used for assessing existing rights and powers under the arrangements. Changes to the contractual arrangements (or a government's ability to set aside a contract using sovereign power) are not considered unless, or until, any such change were to become effective.
- Under pension legislation, there are several categories of defined benefit plans. Jointly sponsored pension plans are a separate category from single sponsor plans or multi-employer plans and have different regulatory requirements.
- Similarly, under PSAS there are several categories of defined benefit plans, which include joint defined benefit pension plans (JDBPs) as a separate category from single sponsor or multi-employer plans.
- In JDBP's a government shares the risks and rewards of a defined benefit plan with plan participants, represented by a sponsor or sponsors. The key characteristic of a JDBP is that there is a formal agreement between the sponsors which established that the sponsors have shared control over the plan. By definition, neither sponsor has unilateral control over the plan, as joint control (shared decision making) is an inherent requirement for a JDBP.
- Other characteristics of JDBPs include:
    - Funding contributions are shared mutually between the government and plan members
    - The sponsors have control over decisions related to the administration of the plan and the level of benefits and contributions on an ongoing basis based on the terms of the contractual agreement
    - The sponsors share, on an equitable basis, the significant risks associated with the benefit plan.

- Historically, OTPP was a single sponsored plan until 1992 when it was converted to be a jointly sponsored pension plan and became a joint defined benefit plan for accounting purposes. OPSEUPP was carved out of the Public Service Pension

Plan (a single sponsor plan) in 1995 and established as a jointly sponsored pension plan and joint defined benefit plan for accounting purposes.

- The motivation for making these changes was so the Provincial Government could transfer a share of the risks of the obligation to the members of the plans. In return for taking on a share of the risk of the obligation, the members received an equitable share of any surplus in the plan (both the upside and downside of plan performance are equitably shared) and the member Sponsors received the right to participate in shared control of the plan, meaning both parties to agree to significant plan decisions such as plan structure, benefits available under the plan, contribution rates, funding levels and other policy decisions.
- As both the funding risk and rewards and the governance of the plan are shared between the employer sponsor(s) and the employee sponsor(s) the move from a single sponsored plan to a jointly sponsored plan was considered to be a fair deal for both sides while achieving a public policy aim or reducing the risk of the obligation to the Provincial Government.

Commented [LD1]: This was the language in my notes, but perhaps there is a better way of phrasing this?

- The fundamental difference between single sponsor defined benefit plans and joint sponsor defined benefit plans is that the control that a single sponsor would have over setting contribution rates and benefits has been replaced with joint control over those decision. The sharing of the risks and rewards of the pension plan on an equitable basis is consistent with the sharing of control over those policies that influence the outcomes of the pension plan.

OTPP – Structure and organization

Sponsors

- The OTPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Minister of Education and Training) as the employer Sponsor and the Ontario Teachers' Federation (represented by its Executive) as the employee Sponsor. The partnership agreement between the joint sponsors sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OTPP is also a multi-employer plan, but these employers are not sponsors.

Decision making

- The OTPP Board is appointed by the joint sponsors and is responsible for the administration of the pension plan, such as investment of assets, payment of benefits, preparation of pension valuations and managing the pension fund.

- The Board does not make any fundamental decisions regarding benefits and contributions as these decisions rest with the joint sponsors' Partners Committee, to which an equal number of representatives are appointed by each sponsor.

Funding arrangements

- The basic funding arrangement in the Teachers' Pension Act is that the employers' contributions shall not exceed those of the members.
- Historically, the Employers have matched the members' contributions, based on the members' contributions in a previous year. This has results in contributions being made typically on a 50:50 basis between employers and members (except where specifically agreed otherwise).
- The contractual arrangements require that an actuarial valuation for funding purposes is prepared at least once every three years to comply with the *Pension Benefits Act*. This actuarial valuation is required to actuarially balanced – meaning that the benefits and costs to be paid from the fund plus any contingency reserve equals the present value of the members and employers contributions and special payments. A preliminary valuation is prepared based on the existing terms of the plan but to the extent that this preliminary valuation is not actuarially balanced the joint sponsors must negotiate and agree what changes to the plan must be made in order to reach an actuarially balanced valuation that will be filed. This process means there is no funding surplus or deficit in the final funding valuation.
- The changes to the plan agreed upon by the joint sponsors could be to increase or decrease contributions for employers and/or members or to improve benefits payable to members. Negotiation must be made in good faith and if an agreement is not reached within a certain time frame a mediator may be appointed by the joint sponsors, and, if necessary a board of arbitration.
- The joint sponsors have agreed to a Funding Management Policy (FMP) which, although not binding, sets a framework for the sponsors to negotiate the use of any funding surpluses or deficits. The FMP clearly indicates that above a certain funding range the sponsors can negotiate to lower contributions or provide temporary or permanent benefit enhancements.
- The OTPP plan text does not limit the outcomes of the negotiation between the joint sponsors. There is no minimum level or fixed range of contributions by members or employers that cannot be changed through the required negotiations.

Commented [LD2]: Note, it is actually the "year before the preceeding year" to two years previous. Did not think it necessary to get into this detail, but it is why it says "a" previous year not "the" previous year.

OPSEUPP – Structure and organization

Sponsors

- The OPSEUPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Chair of the management Board of Cabinet) as the employer Sponsor and the Ontario Public Service Employees' Union as the employee Sponsor.
- The joint sponsors established a trust (OP Trust) and the declaration of trust between the joint sponsors and the trustees of OP Trust sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OPSEUPP is also a multi-employer plan, but these employers are not sponsors.

Commented [LD3]: Confirm this is correct. Sponsor agreement states it is a single employer plan, but other parts of the plan text indicates that it is multi employer with crown corps etc.

Decision making

- The Trustee Board administers the plan and an equal number of trustees are appointed by each of the Provincial Government and OPSEU.
- The Trustee Board votes on resolutions by majority vote. This means that trustees representing both the Provincial Government and OPSEU must agree. In the case of a deadlock there are agreed upon procedures to determine a temporary 11th trustee, as agreed by both the sponsors (or, if necessary, appointed by the Chief Justice of Ontario).
- The trustees are responsible for the administration of the OPSEUPP including the investment of assets, payments of benefits, receipt of contributions, preparation and filing of actuarial valuations in accordance with the Pension Benefits Act
- The trustees have no power to amend the plan or the trust agreement. All decisions regarding contribution levels and benefits to be provided under the plan are the responsibility of the sponsors
- Amendments to the trust agreement, plan text and sponsorship agreement require unanimous written consent of the sponsors.

Commented [LD4]: I'm not clear on whether this is an administrative Board or a representative Board – please advise.

Funding arrangements

Commented [LD5]: Panel to confirm this is an appropriate summary

- The basic funding arrangement in the OPSEUPP text is that employers match the contributions of the members.
- Funding zone agreements
- Limits (or lack thereof) on negotiation of contributions set by plan text

- The plan text clearly states that no amount of surplus shall be paid out of the plan to the Provincial Government or any participating employer. However, it is also clear that contribution reductions are not considered to be a pay out of surplus.
- Any net actuarial gains that arise (after funding certain specific transitional liabilities) are to be used equally for the benefit of employers and OPSEU. Specifically, 50% of the gain may be collectively bargained and used to the benefit of the employers, and 50% of the gain may be collectively bargained and used for the benefit of plan members. There are no restrictions on how each party bargains the use of their surplus. There is no minimum level or fixed range of contributions by members or employers that cannot be changed by agreement of the joint sponsors or through the use of their respective surplus portions.

Commented [LD6]: Check wording against plan text – o/s to find reference.

Panel view

Both OTPP and OPSEUPP have been accounted for as joint defined benefit plans in the Public Accounts of Ontario accordance with PS 3250 since that standard was issued in 2001.

The panel agrees with the accounting classification of both plans as joint defined benefit plans.

Determination of relevant accounting guidance

- The accounting analysis is performed under Public Sector Accounting Principles (PSAS) as issued by the Canadian Public Sector Accounting Board.
- PSAS provides sources of guidance in determining appropriate accounting principles in PS 1150. First must follow any specific standard that relates to the issue under consideration (apply every source of primary GAAP). In this case, PS 3250, *Retirement benefits* is a standard that relates to the accounting for defined benefit pension plans. Further, PS 3250 also defines and contains guidance specifically on joint defined benefit plans.
- If a primary GAAP source, such as PS 3250, is not clear the government would develop an accounting policy considering other standards within PSAS and Section 1000, *Financial Statement Concepts*.
- A government may also refer to accounting guidance in other GAAP frameworks as long as consistent with PSAS standards and Section 1000 above.

Panel View

- The Panel considered the guidance in PS 3250.
- In addition, the panel noted that there were some areas where PS 3250 is not clear with respect to how the guidance in PS 3250 applies to JDBPs. In these cases the panel referred to relevant other guidance, as identified in the analysis below.

Recognition issues

1) Application of Defined Benefit accounting to Joint Defined Benefit Plans

- PS 3250 Paragraph 81states "When a government participates in a joint defined benefit plan, the government's risk is limited to its portion of the plan. The government should account for its portion of the plan in accordance with the standards for defined benefit plans".
- The panel discussed two possible interpretations of how this guidance is to be applied to JDBPs:
    - Interpretation A) Divide the plan between the sponsors' respective portion, and the government applies the guidance on Defined Benefit plans in PS 3250 only to their portion;
    - Interpretation B) The government applies the Defined Benefit guidance in PS 3250 to the plan as a whole using and then recognizes only its portion of the plan in its financial statements
- The interpretation of this paragraph affects the perspective through which the asset recognition guidance in PSAS and the guidance on defined benefit plans in PS 3250 is applied (to the plan or the government's portion of the plan).
- For example, under interpretation A, dividing the plan first would entail measuring plan assets at the government's share, determining the accrued benefit obligation at the government's share and then applying the valuation allowance to any net accrued benefit asset that arises.
- Under interpretation B, the assets and accrued benefit obligation amounts for the whole plan are measured in accordance with PS 3250. The valuation allowance guidance is applied to any accrued benefit asset that arises on the plan as a whole. The government then calculates its portion of the accrued benefit asset, net of any valuation allowance in determining the amount of asset to recognize in the Public Accounts.

- Interpretation B is, in the view of the Panel, a more appropriate answer because it aligns most closely with the concepts of Defined Benefit accounting in PS 3250 and with the economic substance of joint defined benefit plan arrangements.
    - Defined Benefit plan accounting in Financial Statements is based on a *net* amount of plan assets less accrued benefit obligations. Rather than presenting plan assets as "Assets" of the government and plan liabilities as "Liabilities" of the government these are presented as a net asset or liability, which reflects that the plan is a separate entity. This accounting is more similar to an "equity method" of accounting which reflects the sponsor's interest in the net assets (or net liability) of a plan than to a proportionate consolidation accounting. Therefore it similarly is appropriate to calculate the net assets (or liabilities) in the plan in accordance with accounting standards before determining the sponsor's portion of the plan.
    - The fundamental difference between a single sponsor plan and a joint defined benefit plan is in the latter control is shared and a sponsor has only a portion of the risks and rewards. It would be consistent to calculate the plan net asset or net liability in the same manner as for single sponsor plan – on a whole plan basis – before accounting for the shared control distinction by determining what is the government's portion that net asset or net liability.
    - The contractual arrangements between the Sponsors affect the plan as a whole because there is joint control over the plan as a whole and not unilateral control by each sponsor over their portion of the plan. For example, there is one funding policy, one Partners' agreement (OTPP) or sponsorship agreement (OPSEUPP), one plan text and so on that govern the respective plans. A determination of the assets and the liabilities can only be made with reference to the plan as a whole. Therefore it also follows that other aspects of the guidance for accounting for defined benefit plans, such as the valuation allowance guidance, should be applied to the plan as a whole prior to determining a government's portion. This may be particularly important when the portion is determined on an equitable basis, but not necessarily an equal (50:50) basis
    - An important characteristic of JDBPs is that there is an equitable sharing of the plan which applies to both risks and rewards and is the underlying business rationale for a JDBP. It would not be an equitable sharing for a sponsor to have only an obligation for a net liability without any access to a net asset position. One of the implications of Interpretation A is that the sponsors might recognize a liability for their portion of a net liability but be unable to recognize an asset for their portion of a net asset. In the view of

the Panel would not faithfully represent the underlying risks and rewards of the arrangement.

- The Panel believes that if the PSAB had intended joint defined benefit plans to apply the valuation allowance guidance for defined benefit plan accounting only to a portion of the plan they would have provided additional guidance as to how this should be performed.

Application to OTPP and OPSEPP

- The OTPP plan states that the risks [and rewards] are shared between employers and members on an equitable basis, which has historically been on a 50:50 when considered over the long term.
- The OPSEUPP plan indicates that any actuarial gains are allocated to the employers and members on a 50:50 basis and then this portion may be utilized by that party as they determine over time. This means that members and employers could utilize their gains at different times, as historically has been the case. This means that the portion of any net asset that relates to the government's share may fluctuate as a percentage of the total net asset balance and may not result in the government having a 50% portion of the net asset at any one time.

Panel View

The Panel believes it is appropriate to apply all aspects of the guidance for accounting for defined benefit plans in PS 3250 to a JDBP prior to determining the government's portion of that plan for recognition within the financial statements.

2) Definition of an asset – Is there an economic resource

- Under PSAS an assets are defined as "economic resources controlled by a government as a result of past transactions or events and from which future economic benefits are expected to be obtained".
- The resource in question is the accounting accrued benefit asset that arises from applying the accounting guidance in measuring plan assets and the accrued benefit obligation, including the provisions regarding the deferral of unamortized gains or losses. The accrued benefit asset may be very different from any funding surplus calculated under an actuarial valuation performed for funding purposes. Funding valuations may use different actuarial methods and assumptions, such as a provision for adverse deviations. However, under

accounting standards it represents the best estimate of the accrued benefit obligation and the fair value of the plan assets, as adjusted for the permitted deferral provisions. Notwithstanding there is a degree of measurement uncertainty regarding both the measurement of the plan assets and the accrued benefit obligation, PS 3250 – the primary source of GAAP for retirement benefit plans – clearly requires that such an asset is recognized for a single sponsored plans. Consistent with the discussion in 1) above, for JDBP plans these requirements are still applicable and this asset should be considered in the context of the plan as a whole, prior to determining what portion of the asset (if any) is the government's share.

- The recognition of an accrued benefit asset for accounting purposes is then subject to the measurement provisions of the valuation allowance guidance (See section on "Measurement" below).

- In addition to the requirement of PS 3250 to recognize an accrued benefit asset, the Panel also noted the following guidance indicates that an accrued benefit asset in a JDBP represents an economic resource that gives rise to future economic benefits:
    - PSAS provides additional guidance on economic resources and future economic benefits in PS 3210, *Assets,* which is effective from April 1, 2017. An economic resource embodies value because it enables an entity to meet its objectives, such as the provision of public goods and services, redistribution of wealth, generation of cash inflows or reduction of cash outflows. An accrued benefit asset in a pension plan is a resource because it can be used to generate future benefits. This view is confirmed by guidance in IPSASB 39.67
    - The economic resource (plan surplus for accounting purposes) can provide future economic benefits to the joint sponsors in the form of a reduction of cash outflows in the future because it can be used to reduce future contributions, as long as the sponsors are expected to be able to access those future contribution reductions (3210.04(a)). This view is confirmed by guidance in IPSASB 39.67
- In a joint defined benefit plan, the sponsors form a control group. When looking at whether the sponsors can access future contribution reductions or a withdrawal of surplus in meeting the asset definition for the plan as a whole the rights of the sponsors collectively should be considered.
- There is considerable case law in Canada addressing single sponsor plans and the ability of that sponsor to either withdraw surplus from the plan or take contribution holidays. Critical to assessing the ability of the sponsor to withdraw

Commented [LD7]: We discuss this access in detail a bit later on.
To consider flow and placement of support some more when drafting final report.
This thought is not quite well enough supported here.

Commented [LD8]: To Panel: In fleshing out the first section, I felt that these items did not fit well in the "nature of pension plans" section, so suggest moving them here as they relate to the recognition issues. However, would like feedback on whether this revised flow works or these should be moved back.

surplus or take contribution holidays is the plan text; clear rights within the plan text can support the sponsor's right to withdraw surplus or take contribution holidays. However, when the plan text is not clear, there may be legal uncertainties as to whether the sponsor "owns" the surplus. Withdrawal of surplus by the sponsor is generally subject to regulatory and legal hurdles, such as either approval by the Financial Services Commission of Ontario approval with a court order an arbitration award or an agreement between employer and members for any surplus withdrawal. Therefore under case law it is generally considered that a sponsor does not have a legal right to withdraw a surplus until these hurdles have been passed, unless there is a clear right in the plan text.

- Conversely, if the plan text is not clear on the right of a sponsor to be able to reduce contribution, generally Canadian case law would support that the sponsor has the right and ability to utilize surplus through contribution holidays.
- An analysis of the plan documents for OTPP and OPSEU indicate that in both plans the sponsors negotiate and agree on contribution rates. This means that collectively the sponsors can exercise their shared control to reduce future contributions to the plan and access their portion of the economic resource in the form of future economic benefits. In the case of OTPP the government can benefit from the economic resource through the negotiation process over contributions required to make the actuarial valuation actuarially balanced. Similarly the government can benefit from any OPSEUPP asset through their ability to bargain their 50% of any actuarial gains.

- PS 3320 applies to contingent assets which are defined as "possible assets arising from existing conditions or situations involving uncertainty. That uncertainty will ultimately be resolved when one or more future events not wholly within the public sector entity's control occurs or fails to occur. Resolution of the uncertainty will confirm the existence or non-existence of an asset". The implication of a contingent asset is that it is not recognized in financial statements. An accrued benefit asset is not an uncertain economic resource. While there is measurement uncertainty regarding the measurement of an accrued benefit asset due to the necessity of making a number of assumptions regarding demographic and financial actuarial assumptions as well as fair values of plan assets, there is no uncertainty as to whether the plan exists, and therefore over the underlying existence of any estimated accrued benefit asset as an economic resource. PS 3320 notes that "The mere fact that an estimate of an amount is involved (measurement uncertainty) does not, in and of itself, constitute the type of uncertainty that characterizes a contingent asset". The extent of the economic resource become clear as measurement uncertainty is resolved not as future events occur or fail to occur. As such, PS 3320 is not a

Commented [LD9]: Question for Murray – is this in the right place?
This sentence was in the bulleted draft, however, not clear whether this relates only to legal uncertainties over the surplus (i.e. withdrawal) or is a more general comment covering contribution holidays. If the latter then it should be moved somewhere else.

relevant source of guidance in considering whether an asset exists in respect of an accrued benefit asset.

Panel view

The accounting asset meets the definition of an economic resource because the accrued benefit asset exists and future benefit is available to the sponsors in accordance with the plan documents. There is no existence uncertainty regarding the net pension asset.

3) Definition of an asset - Control

- The definition of an asset under PSAS requires that an economic resource is controlled by a Government. PS 3210.16 expands on this control requirement noting that control exists when a government can benefit from economic resource, when they can deny or regulate access to the resource, and when they are exposed to risks associated with the economic resource.
- An accrued benefit asset in a joint defined benefit plan still meets the asset definition from the perspective of a joint sponsor as the joint sponsor is exposed to risks associated with the resource as they are exposed to risk of plan surplus changing from a change in actuarial assumptions. The government sponsor may also regulate access to the resource because joint control means that they must agree to any changes to the plan text or contractual arrangement and as such can deny the other sponsor access to the resource to the extent that joint decisions must be made over the use of the asset.
- As noted above in the case of OTPP and OPSEU the government can benefit from the economic resource.
- Shared control means that there is control, but that control over the plan as a whole is exercised through the joint sponsors as a control group. The contractual arrangements for OTPP and OPSEUPP set out how that joint control is exercised, including how surpluses and deficits are dealt with. In the context of PS 3250, the defined benefit guidance is to be applied to each plan, and then the members of control group each pick up their share. This shared control relationship contrasts with participating employers that are not part of the control group, as those employers do are not able to regulate or deny access to the plan assets and therefore cannot control access to the economic resource of a net plan asset.
- By definition, a joint sponsor of a JDBP does not have unilateral control or unilateral rights to the surplus of a JDBP. Instead there is an agreed upon, pre-determined process, with certainty that a conclusion on the use of any surplus

will be reached and with the expectation that the outcome of the process will be an equitable sharing of any surplus, as equitable sharing is a key characteristic of a JDBP.

- There are other examples in PSAS where joint control results in asset recognition. PS 3060 requires asset recognition for government business partnerships subject to shared control using the modified equity method. Similarly, PS 3060 requires proportionate consolidation for other government partnerships, which results in a government recognizing a proportionate share of the capital assets held under joint control, for example, even though the government cannot control the use of that asset unilaterally. If a jointly controlled asset cannot meet the recognition criteria for an asset then it would logically follow that no investments in government partnerships could be recognized. As it is, such assets are recognized by governments applying PSAS in their public account. The same logic that shared control can still result in asset recognition should apply to a pension asset of a JDBP.
- PS 3250 does require that there is an existing legally enforceable right to withdraw a surplus. This does not mean that there has to be a legally enforceable right to reduce contributions to the plan in the future in order to have control of the economic resource. Under pension law, withdrawal of pension surplus have different legal characteristics from contribution holidays. The former requires that assets already paid into a trust and for which no claim is clearly retained in the plan document, is reclaimed. The latter, which is also a form of economic benefit, requires that assets are not paid into a trust in the future and that the existing claim on those assets is not given up by the sponsor. This is a distinction established in law, and in the view of the Panel, the requirements of PS 3250 paragraph 59 are intended to be applied to the more complex legal context of surplus withdrawal, rather than a broader context of contribution holidays.

Panel view

Unilateral control is not a requirement for asset recognition. An asset subject to joint control can still be recognized under PSAS. The joint sponsors jointly control the net pension asset, and can recognize an asset relating to their portion of that jointly controlled asset.

Panel View - Recognition

PS 3250 requires the *recognition* of an asset for the government's portion of the plan surplus for both plans.

Those assets may require a valuation allowance. The measurement of those assets is addressed in the next section.

Measurement issues

Overview of guidance on measurement of an accrued benefit asset

- A primary source of GAAP should apply if it exists. PS 3250 paras 50-59 provides guidance on measuring any accrued benefit asset that results when the plan assets are measured at an amount greater than the accrued benefit obligation. As the guidance on defined benefit plans is applied to JDBPs prior to the government recognizing its portion of the plan, the valuation guidance should also be applied to the plan as a whole, prior to the joint sponsors recognizing their portion of the result.
- If applying the guidance in PS 3250 results in an amount of an accrued benefit asset for the plan after a valuation allowance has been applied, if necessary, then by definition this amount equates to the expected future benefit that the sponsors can access in the plan and would be eligible for asset recognition in the books of the joint sponsor.
- PS 3250 defines an accrued benefit asset as “the amount of any asset recognized on a government's statement of financial position in respect of employee retirement benefits before deducting any valuation allowance that may be required. It is the sum of the government's accumulated cash contributions less the sum of the current and prior years' benefit expenses (before any change in the valuation allowance).”
- Accrued benefit asset is adjusted for any net unamortized losses, if any, before testing for the valuation allowance to give the adjusted benefit asset. “Adjusted benefit asset is an accrued benefit asset less the amount, if any, by which the aggregate of any unamortized actuarial losses exceeds the aggregate of any unamortized actuarial gains.” This is because the net unamortized losses will unwind automatically overtime based on the accounting model in PS 3250. No adjustment is made for net unamortized gains as these would only increase the accrued benefit asset. In the case of OTPP and OPSEUPP there are net unamortized gains, and so the accrued benefit asset equals the adjusted benefit asset.
- PS 3250 requires that the expected future benefit is compared to the adjusted benefit asset
- PS 3250 specifies how the expected future benefit is to be calculated:
  A government determines its expected future benefit as the sum of:

a) the present value of its expected future accruals for service for the current number of active employees, less the present value of required employee contributions and minimum contributions the government is required to make regardless of any surplus; and

b) the amount of the plan surplus that can be withdrawn in accordance with the existing plan and any applicable laws and regulations.

1) Impact of legally enforceable rights on calculation of expected future benefit amount

- PS 3250 uses the phrase "expected future benefits". This language indicates that future benefits only have to be expected, they do not have to be certain. Under the standard there are two ways that expected future benefits may be realized – through the withdrawal or surplus or through using the surplus to fund the expense of benefits earned by members in future period – that is, paying lower contributions into the plan in the future, often referred to as a "contribution holiday".
- The panel did not put any emphasis on expected future benefit arising from withdrawal of plan surplus, as the Provincial Government does not expect to benefit from surpluses through a withdrawal, and there is no explicit right for the sponsors to claim a withdrawal from the plans. In fact OPSEUPP explicitly states that the sponsors are not entitled to have any surplus paid out of the plan, and both OTPP and OPSEUPP plans state that upon wind up any surplus must be used to the benefit of members.
- PS 3250 paragraph 52 notes that the expected future benefits may be impacted if a government is not entitled to benefit fully from those expected future benefits or there are uncertainties as to the legal right to use a plan surplus. Such limitations might occur when there is an explicit restriction in the plan text that employers must always match the members' contributions, which might limit the government's entitlement to benefit fully from future reductions in contributions. However, in the OTPP there is no such restriction. The government match to members' contributions required by the Teachers' Pension Act is to a maximum of the members contributions. The current arrangement that the employers match a prior years' contribution level by members is by agreement of the joint sponsors and may be changed in the future as part of the negotiations to create an actuarially balanced funding valuation. Similarly, for OPSEUPP the plan text agreed to matching employer/member contributions, but this may also be changed through the exercise of shared control with the other joint sponsor.
- Ultimately, all the decisions regarding plan contributions and plan benefits rests with the joint sponsors and there are no legal uncertainties regarding the sponsors rights, as joint sponsors, to determine contribution and benefit levels. It is clearly laid out in the legal and contractual arrangements of both OTPP and OPSEUPP.

- PS 3250 paragraph 59 requires a legally enforceable right to exist before an expected future benefit can be recognized for a withdrawal or surplus. The Panel believes that these requirements apply specifically to the expected future benefits of paragraph 56 (b) and not to the amounts calculated in accordance with 56 (a) amounts. Each sentence, excluding the last sentence, in paragraph 59 refers to a withdrawal of assets from the plan. Legally speaking, and consistent with the plan texts of OPSEUPP a contribution holiday is not a withdrawal of surplus - these are two separate concepts.
- The last sentence in paragraph 59 does refer to changes in the allocation of surplus. OTPP and OPSEUPP existing plan documents govern the allocation of surplus or provide the process on to how to agree the allocation of surplus on an equitable basis. In the case of OTPP, there is no requirement to changes the existing allocation of surplus or the existing rights within the contractual arrangement in order for the government joint sponsor to use their existing rights under the shared control arrangement to negotiate an expected future benefit. In the case of OPSEUPP the surplus is allocated to each joint sponsor the form of their respective stabilization reserve pools

Panel View

- A joint sponsor does not have to have a unilateral legally enforceable right to reduce future contributions to have an expected future benefit under paragraph 56 (a).

2) Calculation of the present value of expected future accruals for service for the current number of active employees

- PS 3250 provides further guidance on how to calculate the present value of expected future accruals for service for the current number of active employees.
- Under this guidance, this amount is determined on a basis consistent with the accrued benefit obligation. The calculation is based on an open group , which is the idea that the current number of employees will exist for perpetuity. This is generally recognized in practice as being an appropriate assumption for the application of this test under PSAS, unless there is an expected significant change in the number of members, for example because a plan is closed to new members or because of a planned restructuring. The panel is not aware of any such changes that are expected for either OTPP or OPSEUPP.
- The guidance notes that in addition to the expected future accrual for service, the expected administrative and investment expenses to be paid out of the plan can been included, if they are not already taken into account in the expected return of assets rate.

- The Panel suggests that the Province might consider to what extent the expenses paid out of the plan could be added to the economic benefit.

3) What are the "minimum contributions the government is required to make regardless of any surplus"

Commented [LD10]: Note – this analysis does not mention the FMP and funding zones etc.
Panel to advise if this should be added in anywhere and if so, where?

- The objective of the test in paragraph 56 (a) is to determine whether a sponsor will be able to obtain expected future benefit from an existing surplus, by reducing their contributions below the expected cost of benefits for future services provided under the plan.
- The purpose of the minimum contributions test is to determine whether there are requirements that would make a sponsor continue to contribution cash at a certain level, even when there are plan surpluses, and thus make it impossible for the sponsor to obtain a reduction in cash contributions to the plan.
- For a single sponsor plan, common practice in Canada under pension legislation is to consider that the sponsor can take a contribution holiday unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan. The Panel concludes that, following the guidance in PS 3250 that the plan is accounted for as a whole using the Defined Benefit guidance and then the government picks up its portion of the plan, a similar logic should apply to JDBPs – the joint sponsors can take a contribution holiday unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan.
- A question arises as to whether the surplus that is contemplated in the phrase "regardless of any surplus" is an accounting surplus or a funding surplus. The panel understands that in practice actuaries interpret this in practice to be funding surplus and not accounting surplus, and that if any contributions are required when there is a funding surplus these would be minimum contributions.
- There is also a question as to whether a joint sponsor can create a minimum contribution requirement on the other joint sponsor because shared control means that both sponsors must agree to any change in contribution levels, therefore absent any agreement the existing contribution levels are "fixed" and cannot be changed. However this view would not be consistent with the notion that the valuation allowance is being applied to the plan as a whole, with the joint sponsors able to collectively control the contribution levels under the plan arrangements. Equal reduced contributions for both members and employers benefit both joint sponsors
- It is relevant to note that as OTPP always requires an actuarially balanced valuation allowance to be filed, there is no funding surplus that arises, as any preliminary funding surplus must be dealt with through the negotiation process. A

funding surplus could arise prior to the filing of the next actuarially balanced funding valuation, as this must occur only once every three years. However, the joint sponsors can agree to file a funding valuation every year if they choose, to rebalance the contributions, reserves, and benefits of the plan. As the joint sponsors must agree on the contribution levels and make corresponding changes to the plan text if necessary, there are no “minimum contributions” that must be made, regardless of any surplus, as there is no minimum level of contributions that must be agreed upon by the joint sponsors. They can agree to any level of contributions as long as the result in actuarially balanced and so the level of surplus absolutely affects the contributions that are determined by this negotiation process. While it might be expected that some level of contributions will be made in the future to fund the benefits cost of future services, there is no method of determining under the contractual arrangements what this would be, given that the level is subject to negotiation and must be negotiated. As such the “minimum contributions” cannot be determined.

- Similarly, for OPSEUPP the stabilization reserves act as limit on the amount of funding surplus that accrued in the plan. Whether these stabilization reserves are used to reduce contributions or are maintained as a buffer is at the discretion of the joint sponsor. This is very similar to the ability that a single sponsor has to reduce contributions or maintain a reserve as a buffer for future changes in actuarial assumptions.

- The Panel noted that a number of calculation regarding the expected future benefit for both OTPP and OPSEU were made, based on different assumptions regarding what were the minimum contributions required under each plan. For example, scenarios included minimum contributions as the agreed upon contribution until the next mandatory negotiations in three years; minimum contributions as the currently agreed upon contributions for a longer period; and minimum contributions as the currently agreed upon contributions until certain limited on contributions under the Income Tax Act would be expected to kick in. These various views exist because the standard does not currently provide clear guidance on how to apply the definition of “minimum contributions regardless of any surplus”.

- If no expected future benefit to Gov’t sponsor, then is also no expected future benefit to joint sponsor. Does this make sense? Is this consistent with public expectations and expectations of the other sponsor?

Panel view - Measurement

- Based on the analysis of the plan arrangements for OTPP and OPSEUPP the level of minimum contributions required regardless of any surplus is lower than the present value of expected future accruals for service for the current number of active employees. All things being equal this creates headroom that could support the recognition of an amount in respect of the net pension asset of OTPP and OPSEUPP.
- Recommendations to province – be mindful that if have a funding surplus and have a legal requirement to continue to contribute could be minimum contributions.

Recommendations to PSAB Employment Future Benefits Task Force

Commented [LD11]: These are currently in no particular order. Panel to advise as to ranking?

Application of guidance to Joint defined benefit plans

- The Panel notes that the standard is not clear on how the ability to access expected future benefits should be applied in the context of Joint Defined Benefit Plans. A clarification on how the guidance in PS 3250.81 should be applied (Interpretation A or Interpretation B) would be helpful.

Minimum contributions

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that funding valuations drive decision making over plan funding including contribution increases or reductions by sponsors. However, funding valuations may result in net pension assets or liability that are very different from the accounting net pension asset or liability. This results in a lack of clarity over whether minimum contributions may be made "regardless of any surplus" and whether a sponsor will be able to access an accounting surplus when the funding surplus is much smaller, or is a funding liability. There is some difficulty in determining what are minimum contributions in the context of joint DB plans when future contributions are dependent on the funded status of the plan and negotiation.

- For example, should the minimum contributions test be based on accounting surplus or funding surplus? Is it a present surplus or can it be a projected future surplus? Additional clarity on what constitutes a “minimum contribution” could increase consistency of application of this guidance for joint defined benefit plans [and single sponsor plans?].

Deferral accounting

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that the existing deferral provisions have the potential to result in an asset being recognized on financial statements when there is no underlying economic resource. Although this is not the case for either the OTPP or the OPSEUPP, this could occur when unamortized losses exist such that despite the the fair value of the plan assets being less than the estimated accrued benefit obligation, an accrued benefit asset could still be presented. This can be confusing to users of the financial statements as it is not transparent as to the underlying economic resource of the plan. Transparency is in the public interest. and transparency would suggest that it is important to recognize all liabilities or assets that exist and not to recognize assets where there is no underlying resource that gives rise to future economic benefit. Any mechanisms used to deal with potential income statement volatility concerns should ensure that these do not result in lack of transparency on the balance sheet. [Reference to IPSAS 39]

Discount rates

- The Panel supports PSAB examining discount rates for employment benefits. The Panel understand that in the public sector a sponsor borrowing rate is often used for unfunded plans and an asset return rate is used for funded plans. An appropriate asset return rate will vary depending on how assets are invested. The discount rates used by public sector entities may also be different then the discount rates used in the Plan’s own financial statements prepared under Part IV of the CPA Canada Handbook – Accounting, resulting in significant different measurements of accrued benefit obligations for the same plan in different financial statements. This inconsistency could be confusing to users.

  The Panel observes that many more recent accounting pronouncements relating to liability measurement require that the discount rate used to measure the liability capture the risks inherent in that liability. The panel suggests that the

Employment Benefit Task Force consider whether the method used to settle an obligation should affect how that obligation is measured and how the risks inherent in the obligation are best captured either in the discount rate or in other aspects of the measurement of the obligation.

Funding valuation

- As a funding valuation may result in a funding surplus or deficit that is very different than the accounting surplus or deficit this may be confusing to some users where both measures are presented in the same document.
- The Panel believes it may be beneficial to include additional discussion in a revised standard or other material about how the objectives and assumptions in funding valuations may differ from those used in the accounting valuation and why.
- The Panel suggests that a disclosure highlighting the quantitative differences in the funding valuation compared to the accounting valuation should be made in the financial statements of pension plans and/or in the financial statements of sponsors when information on the funding valuation of a plan is also made public or available to the same users of the financial statements. This would be useful to users as it would provide additional context for both the accounting and funding valuations.

Commented [LD12]:
Is this going to far?
Otherwise, have to think about how we highlight that this recommendation is to AcSB and not PSAB/Task force.

APPENDIX A – PENSION PLAN GOVERNING ARRANGEMENTS

OTPP

- The *Teachers' Pension Act*, R.S.O. 1990, c.T.1 (Link to the Teachers' Pension Act);
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The plan text for OTPP;
- An agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Minister of Education and Training and The Ontario Teachers' Federation represented by its Executive, dated July 15, 1991, as amended (The Partners' Agreement);
- A Funding Management Policy, attached as Appendix A to the Partners' Agreement (FMP).

OPSEU

- The Ontario Public Service Employees' Union Pension Act, 1994 S.O. 1994, c 17, s.143 Sched (Link to the Ontario Public Service Employees' Union Pension Act)
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The sponsorship agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Chair of the Management Board of Cabinet and the Ontario Public Service Employees' Union, dated April 18, 1994, as amended (The Sponsorship Agreement);
- The Agreement and Declaration of Trust of OPSEU Pension Plan Trust Fund, dated October 25, 1994, as amended (The Trust Agreement);
- The plan text for OPSEUPP;
- OP Trust Funding policy.

Appendix B - Accounting references

IPSASB 39. 67. A net defined benefit asset may arise where a defined benefit plan has been overfunded or where actuarial gains have arisen. An entity recognizes a net defined benefit asset in such cases because:

(a) The entity controls a resource, which is the ability to use the surplus to generate future benefits;

(b) That control is a result of past events (contributions paid by the entity and service rendered by the employee); and

(c) Future economic benefits are available to the entity in the form of a reduction in future contributions or a cash refund, either directly to the entity or indirectly to another plan in deficit. The asset ceiling is the present value of those future benefits

Appendix C

- Compare to BC and NB plans. Key differences here is that documents, including the contribution rates, can change if agreed upon by joint sponsors.

Commented [LD13]: Current parking lot – to be completed and refined .

Commented [NT14]: o/s need to understand why the AG referred to these – is there a concern that we need to address that we have not yet.

2 - Email - December 16 2016 - draft v2 and AG meeting.pdf

From:	Patricia O"Malley
To:	· Murray Gold; Uros Karadzic; Paul.Martin@gnb.ca
Cc:	lucy.durocher@ca.pwc.com; Tam, Nelson (TBS)
Subject:	draft v2 and AG meeting
Date:	December-16-16 5:32:44 PM
Attachments:	PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v2 to"m.docx

Hi everyone

First, thanks to Lucy for meeting the deadline, no matter how ridiculous. The general agreement form the reviews done to date i that it is in very good shape and pretty much ready to begin writing the draft report.

I am attaching a copy in track changes with my preliminary comments. I might have more on further reflection. However, some of them will probably need clarification from Murray. He has promised to complete his review before he leaves on holidays -- another huge thank you. The places I think your input is most needed generally have highlighted text with ???s.

The meeting with the AG and her team was interesting. As we suspected, they are very dug in on their position and while they claim to be looking at the big picture, most of their arguments seem to turn on very restrictive readings of particular standards. My major concern is that the approach the AG seems to advocate is that all liabilities and claims should be recognized while most assets are deeply suspect until you have a cheque in your hand. I probably exaggerate a bit, but not much. We have agreed that we will need to up our game at the conceptual level and this is where I will need Lucy's help as I am not as familiar with the PSAB Conceptual Framework as with its private sector counterparts. However, once all the comments are it, the consensus is that Lucy sould concentrate on processing them and ten getting on with drafting.

Nelson, the one big issue for you to consider and pass along is that the AG is going to be away on vacation from January 19 to 29 and again from Feb 5. That is, the only week we have to provide her with an advance copy of the report for her review is w/c Monday Jan 30. While tis takes some pressure off us in terms of layout, translation etc. it does not help meeting the government's stated objective fore the delivery of the report. It may, however, allow us enough time to address the HOOPP and CAATPP plans in the main report rather than in a supplement.

I think that's all for now. Have a good weekend (or as good as it can be when you are reviewing draft report outlines!)
Best
Tricia

Tricia O'Malley

Mobile +1 (416) 570 1924

PENSION ASSET EXPERT ADVISORY PANEL REPORT Dr_1.pdf

PENSION ASSET EXPERT ADVISORY PANEL

[DRAFT] REPORT

[NTD - o/s Cover letter? (including mandate summary)

Executive Summary]

Mandate of the Panel

- Pension Asset Expert Advisory Panel (the Panel) was formed to address
  - The requirement regarding control with respect to recognizing a pension asset for a joint defined benefit plan
  - The requirement regarding control with respect to recognizing a pension asset for other pension plans
  - Appropriate valuation techniques to measure a pension asset that take into consideration future decision making authority by plan sponsors
  - Recommendations to the Employee Future Benefits Task Force of the Public Sector Accounting Board regarding issues that should be considered in its review of the retirement and post-employment benefits standards.

- Looked at recognition and measurement of pension assets arising in certain jointly sponsored pension plans (specifically, the Ontario Teachers' Pension Plan (OTPP) and the Ontario Public Service Employees' Union Pension Plan (OPSEUPP), collectively the "Plans") in accordance with Canadian public sector accounting standards (PSAS).

- The recognition and measurement of pension assets arising in other plans, such as the Healthcare of Ontario Pension Plan (HOOPP) and the Colleges of Applied Arts and Technology Pension Plan (CAATPP) will be covered in a later supplemental report that considers the different attributes of these plans

Nature of the pension plans examined

- Pension plans are not all alike. Each pension plan has distinct contractual and other arrangements that must be considered in assessing the accounting for that plan.
- The relevant legislative acts and contractual arrangements governing the Plans that were considered by the Panel are listed in Appendix A.
- While the Provincial Government has the legislative ability to change the relevant Acts, it has also entered into contractual arrangements with the employee sponsor(s). For accounting purposes the existing contractual agreements are past transactions and are used for assessing existing rights and powers under the arrangements. Changes to the contractual arrangements (or a government's ability to set aside a contract using sovereign power) are not considered unless, or until, any such changes ~~were to~~ become effective.
- Under pension legislation (Pension Benefits Act), there are several categories of defined benefit plans. Jointly sponsored pension plans are a separate category from single sponsor plans or multi-employer plans and have different regulatory requirements.
- Similarly, under PSAS there are several categories of defined benefit plans, which include joint defined benefit pension plans (JDBPs) as a separate category from single sponsor or multi-employer plans.
- In JDBP~~'~~s a government sponsor shares the risks and rewards of a defined benefit plan with plan participants, represented by a sponsor or sponsors. The key characteristic of a JDBP is that there is a formal agreement between the sponsors which establishes~~d~~ that the sponsors have shared control over the plan. By definition, neither sponsor has unilateral control over the plan, as joint control (shared decision making) is an ~~inherent~~ essential requirement for a JDBP.
- Other characteristics of JDBPs include:
    - Funding contributions are shared mutually between the government and plan members
    - The sponsors have shared control over decisions related to ~~the administration of the plan and~~ the level of benefits and contributions on an ongoing basis based on the terms of the contractual agreement as well as arrangements for the administration of the plan
    - The sponsors share, on an equitable basis, the significant risks, both positive and negative, associated with the benefit plan.

- Historically, OTPP was a single sponsored plan until 1992 when it was converted to be a jointly sponsored pension plan (PBA) and became a joint defined benefit plan for accounting purposes. OPSEUPP was carved out of the Public Service Pension Plan (a single sponsor plan) in 1995 and established as a jointly sponsored pension plan (PBA) and a joint defined benefit plan for accounting purposes.

- The motivation for making these changes was ~~so~~ for the Provincial Government ~~could~~ to transfer a share of the risks of the obligation to the members of the plans. In return for taking on a share of the risk of the obligation, the members received an equitable share of any surplus in the plan (both the upside and downside of plan performance are equitably shared) and the member Sponsors received the right to participate in shared control of the plan, meaning both parties to agree to significant plan decisions such as plan structure, benefits available under the plan, contribution rates, funding levels and other policy decisions.
- As both the funding risk and rewards and the governance of the plan are shared between the employer sponsor(s) and the employee sponsor(s) the move from a single sponsored plan to a jointly sponsored plan was considered to be a fair deal for both sides while achieving a public policy aim of~~r~~ reducing the risk of the obligation to the Provincial Government.

Commented [LD1]: This was the language in my notes, but perhaps there is a better way of phrasing this? “an equitable economic arrangement”?

- The fundamental difference between single sponsor defined benefit plans and joint sponsor defined benefit plans is that the control that a single sponsor would have over setting contribution rates and benefits has been replaced with joint control over those decision. The sharing of the risks and rewards of the pension plan on an equitable basis is consistent with the sharing of control over those policies that influence the outcomes of the pension plan.

OTPP – Structure and organization

Sponsors

- The OTPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Minister of Education and Training) as the employer Sponsor and the Ontario Teachers’ Federation (represented by its Executive) as the employee Sponsor. The partnership agreement between the joint sponsors sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OTPP is also a multi-employer plan, but these employers are not sponsors.

Decision making

- The OTPP Board is appointed by the joint sponsors and is responsible for the administration of the pension plan, such as investment of assets, payment of benefits, preparation of pension valuations and managing the pension fund.
- The Board does not make any fundamental decisions regarding benefits and contributions as these decisions rest with the joint sponsors' Partners Committee, to which an equal number of representatives are appointed by each sponsor.

Funding arrangements

- The basic funding arrangement in the Teachers' Pension Act is that the employers' contributions shall not exceed those of the members.
- Historically, the Employers have matched the members' contributions, based on the members' contributions in a previous year. This has resulted~~s~~ in contributions being made typically on a 50:50 basis between employers and members (except where specifically agreed otherwise).
- The contractual arrangements require ~~that~~ an actuarial valuation for funding purposes ~~is~~ to be prepared at least once every three years to comply with the *Pension Benefits Act*. This actuarial valuation is required to be "actuarially balanced" – meaning that the benefits and costs to be paid from the fund plus any contingency reserve equals the present value of the members and employers contributions and special payments. A preliminary valuation is prepared based on the existing terms of the plan. ~~but t~~To the extent that this preliminary valuation is not actuarially balanced, the joint sponsors must negotiate and agree what changes to the plan must be made in order to reach an actuarially balanced valuation that will subsequently be filed. This process means there is no funding surplus or deficit in the final funding valuation.
- The changes to the plan agreed upon by the joint sponsors could be to increase or decrease contributions for employers and/or members or to improve benefits payable to members. Negotiation must be made in good faith and if an agreement is not reached within a certain time frame a mediator may be appointed by the joint sponsors, and, if necessary a board of arbitration.
- The joint sponsors have agreed to a Funding Management Policy (FMP) which, although not binding, sets a framework for the sponsors to negotiate the use of any funding surpluses or deficits. The FMP clearly indicates that above a certain funding? range the sponsors can must? negotiate to lower contributions or provide temporary or permanent benefit enhancements.
- The OTPP plan text does not limit the outcomes of the negotiation between the joint sponsors. There is no minimum level or fixed range of contributions by members or employers that cannot be changed through the required negotiations.

Commented [LD2]: Note, it is actually the "year before the preceeding year" to two years previous. Did not think it necessary to get into this detail, but it is why it says "a" previous year not "the" previous year.

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OPSEUPP – Structure and organization

Sponsors

- The OPSEUPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Chair of the management Board of Cabinet) as the employer Sponsor and the Ontario Public Service Employees' Union as the employee Sponsor.
- The joint sponsors established a trust (OP Trust) and the declaration of trust between the joint sponsors and the trustees of OP Trust sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OPSEUPP is also a multi-employer plan, but these employers are not sponsors.

Decision making

- The Trustee Board administers the plan and an equal number of trustees are appointed by each of the Provincial Government and OPSEU.
- The Trustee Board votes on resolutions by majority vote. This means that trustees representing both the Provincial Government and OPSEU must agree. In the case of a deadlock there are agreed upon procedures to ~~determine~~ appoint a temporary 11th trustee, as agreed by both the sponsors (or, if necessary, appointed by? the Chief Justice of Ontario).
- The trustees are responsible for the administration of the OPSEUPP including the investment of assets, payments of benefits, receipt of contributions, preparation and filing of actuarial valuations in accordance with the Pension Benefits Act
- The trustees have no power to amend the plan or the trust agreement. All decisions regarding contribution levels and benefits to be provided under the plan are the responsibility of the sponsors
- Amendments to the trust agreement, plan text and sponsorship agreement require unanimous written consent of the sponsors.

Funding arrangements

- The basic funding arrangement in the OPSEUPP text is that employers match the contributions of the members.
- Funding zone agreements
- Limits (or lack thereof) on negotiation of contributions set by plan text

Commented [LD3]: Confirm this is correct. Sponsor agreement states it is a single employer plan, but other parts of the plan text indicates that it is multi employer with crown corps etc.

Commented [LD4]: I'm not clear on whether this is an administrative Board or a representative Board – please advise.

Commented [PO5]: I thought that if none of the pre-authorized third trustees was available, the decision maker was to **be** the Chief Justice.

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Commented [LD6]: Panel to confirm this is an appropriate summary

- The plan text clearly states that no amount of surplus shall be paid out of the plan to the Provincial Government or any participating employer. However, it is also clearly stated that contribution reductions are not considered to be a pay out of surplus.
- Any net actuarial gains that arise (after funding certain specific transitional liabilities which have now been satisfied?) are to be used equally for the benefit of the sponsors (employers and OPSEU). Specifically, 50% of the gain may be collectively bargained? and used to the benefit of the employers, and 50% of the gain may be collectively bargained and used for the benefit of plan members. There are no restrictions on how each party bargains the use of their surplus. There is no minimum level or fixed range of contributions by members or employers that cannot be changed by agreement of the joint sponsors or through the use of their respective surplus portions.

Panel view

Both OTPP and OPSEUPP have been accounted for as joint defined benefit plans in the Public Accounts of Ontario accordance with PS 3250 since that standard was issued in 2001.

The panel agrees with the accounting classification of both plans as joint defined benefit plans.

Determination of relevant accounting guidance

- The accounting analysis is performed ~~under~~ in accordance with Public Sector Accounting Principles (PSAS) as issued by the Canadian Public Sector Accounting Board.
- PSAS ~~provides~~ identifies sources of guidance in determining appropriate accounting principles in PS 1150. First must follow any specific standard that relates to the issue under consideration (apply every source of primary GAAP). In this case, PS 3250, *Retirement benefits* is a standard that ~~relates to~~ specifically addresses the accounting for defined benefit pension plans. Further, PS 3250 also defines and contains specific guidance ~~specifically~~ on accounting for joint defined benefit plans.
- If a primary GAAP source, such as PS 3250, is not clear, the government would develop an accounting policy considering other standards within PSAS and Section 1000, *Financial Statement Concepts*.

Commented [LD7]: Check wording against plan text – o/s to find reference.

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- A government may also refer to accounting guidance in other GAAP frameworks as long as those frameworks are consistent with PSAS standards and Section 1000 above.

Panel View

- The Panel considered the guidance in PS 3250.
- In addition, the panel noted that there were some areas where PS 3250 is not clear with respect to how the guidance in PS 3250 applies to JDBPs. In these cases the panel referred to relevant other guidance, as identified in the analysis below.

Commented [PO8]: The uncertainty regarding the ceiling test both w.r.t. "minimum contributions regardless of surplus" and the period for which contributions are fixed I think arises for all plans not just JDBPs?

Recognition issues

1) Application of Defined Benefit accounting to Joint Defined Benefit Plans

- PS 3250 Paragraph 81states "When a government participates in a joint defined benefit plan, the government's risk is limited to its portion of the plan. The government should account for its portion of the plan in accordance with the standards for defined benefit plans".
- The panel discussed two possible interpretations of how this guidance is to be applied to JDBPs:
    - Interpretation A) Divide the plan between the sponsors' respective portions, and the government applies the guidance on Defined Benefit plans in PS 3250 only to ~~their~~ its portion;
    - Interpretation B) The government applies the Defined Benefit guidance in PS 3250 to the plan as a whole ~~using~~ and then recognizes only its portion of the plan in its financial statements
- The interpretation of this paragraph affects the perspective through which the asset recognition guidance in PSAS and the guidance on defined benefit plans in PS 3250 is applied (to the plan or the government's portion of the plan).
- For example, under interpretation A, dividing the plan first would entail measuring plan assets at the government's share, determining the accrued benefit obligation at the government's share and then applying the valuation allowance to any net accrued benefit asset that arises.
- Under interpretation B, the assets and accrued benefit obligation amounts for the whole plan are measured in accordance with PS 3250. The valuation allowance guidance is applied to any accrued benefit asset that arises on the plan as a whole. The government then calculates its portion of the accrued benefit asset,

net of any valuation allowance in determining the amount of asset to recognize in the Public Accounts.

- Interpretation B is, in the view of the Panel, a more appropriate answer because it aligns most closely with the concepts of Defined Benefit accounting in PS 3250 and with the economic substance of joint defined benefit plan arrangements.
    - Defined Benefit plan accounting in Financial Statements for all plans is based on a *net* amount of plan assets less accrued benefit obligations. Rather than presenting plan assets as "Assets" of the government and plan liabilities as "Liabilities" of the government these are presented as a net asset or liability, which reflects that the plan is a separate entity. This accounting is more similar to an "equity method" of accounting which reflects the sponsor's interest in the net assets (or net liability) of a plan than to a proportionate consolidation accounting. Therefore it similarly is appropriate to calculate the net assets (or liabilities) in the plan in accordance with accounting standards before determining the sponsor's portion of the plan.
    - The fundamental difference between a single sponsor plan and a joint defined benefit plan is in the latter control is shared and a sponsor has only a portion of the risks and rewards. It would be consistent to calculate the plan net asset or net liability in the same manner as for single sponsor plan – on a whole plan basis – before accounting for the shared control distinction by determining what is the government's portion that net asset or net liability.
    - The contractual arrangements between the Sponsors affect the plan as a whole because there is joint control over the plan as a whole and not unilateral control by each sponsor over ~~their~~ its portion of the plan. For example, there is one funding policy, one Partners' agreement (OTPP) or sponsorship agreement (OPSEUPP), one plan text and so on that govern the respective plans. A determination of the assets and the liabilities can only be made with reference to the plan as a whole. Therefore it also follows that other aspects of the guidance for accounting for defined benefit plans, such as the valuation allowance guidance, should be applied to the plan as a whole prior to determining a ~~government's~~ sponsor's portion. This may be particularly important when the portion is determined on an equitable basis, but not necessarily an equal (50:50) basis
    - An important characteristic of JDBPs is that there is an equitable sharing of the plan which applies to both risks and rewards and is the underlying

Commented [PO9]: This is the key point and should therefore be moved earlier.

~~business~~ economic rationale for a JDBP. It would not be an equitable sharing for a sponsor to have only an obligation for a net liability without any access to a net asset position. One of the implications of Interpretation A is that the sponsors might recognize a liability for their portion of a net liability but be unable to recognize an asset for their portion of a net asset. In the view of the Panel would not faithfully represent the underlying risks and rewards of the arrangement.

- The Panel believes that if the PSAB had intended joint defined benefit plans to apply the valuation allowance guidance for defined benefit plan accounting only to a portion of the plan they would have provided additional guidance as to how this should be performed.

Commented [PO10]: More importantly, the standard says "follow the DB guidance and then account for your potion".

Application to OTPP and OPSEPP

- The OTPP plan states that the risks [and rewards] are shared between employers and members on an equitable basis, which has historically been ~~on a~~ 50:50 when considered over the long term.
- The OPSEUPP plan indicates that any actuarial gains are allocated ~~to~~ between the employers and members on a 50:50 basis. Each sponsor can ~~and~~ then ~~this portion may be utilized by that party as they determine over time~~utilize its portion as it unilaterally determines. This means that members and employers could utilize their gains at different times, as historically has been the case. This means that the portion of any net asset that relates to the government's share may fluctuate as a percentage of the total net asset balance and may not result in the government having a 50% portion of the net asset at any one time.

Panel View

The Panel believes it is appropriate to apply all aspects of the guidance for accounting for defined benefit plans in PS 3250 to a JDBP prior to determining the government's portion of that plan for recognition ~~within~~ in the financial statements.

2) Definition of an asset – Is there an economic resource

- Under PSAS ~~an~~ assets are defined as "economic resources controlled by a government as a result of past transactions or events and from which future economic benefits are expected to be obtained".
- The resource in question is the accounting accrued benefit asset that arises from applying the accounting guidance in measuring plan assets and the accrued

benefit obligation, including the provisions regarding the deferral of unamortized gains or losses. The accrued benefit asset may be very different from any ~~funding~~ surplus calculated under an actuarial valuation performed for funding purposes. Funding valuations may use different actuarial methods and assumptions, such as a provision for adverse deviations. However, under accounting standards ~~it~~ any surplus represents the best estimate of the accrued benefit obligation and the fair value of the plan assets, as adjusted for the permitted deferral provisions. Notwithstanding there is a degree of measurement uncertainty regarding both the measurement of the plan assets and the accrued benefit obligation, PS 3250 – the primary source of GAAP for retirement benefit plans – clearly requires ~~that~~ such an asset ~~is~~ to be recognized for a single sponsored plan~~s~~. Consistent with the discussion in 1) above, for JDBP plans these requirements are still applicable and this asset should be considered in the context of the plan as a whole, prior to determining what portion of the asset (if any) is the government's share. That is, there is no requirement for the amount of any asset to be precisely determinable under 3250 or any other standard.

- The ~~recognition of an~~ accrued benefit asset recognized for accounting purposes is then subject to the measurement provisions of the valuation allowance guidance (See section on "Measurement" below).

- In addition to the requirement of PS 3250 to recognize an accrued benefit asset, the Panel also noted the following guidance indicates that an accrued benefit asset in a JDBP represents an economic resource that gives rise to future economic benefits:
  - PSAS provides additional guidance on economic resources and future economic benefits in PS 3210, *Assets,* which is effective from April 1, 2017. An economic resource embodies value because it enables an entity to meet its objectives, such as the provision of public goods and services, redistribution of wealth, generation of cash inflows or reduction of cash outflows. An accrued benefit asset in a pension plan is a resource because it can be used to generate future benefits. This view is confirmed by guidance in IPSAS~~B~~ 39.67
  - The economic resource (plan surplus for accounting purposes) can provide future economic benefits to the joint sponsors in the form of a reduction of cash outflows in the future because it can be used to reduce future contributions, as long as the sponsors are expected to be able to access those future contribution reductions (3210.04(a)). This view is confirmed by guidance in IPSAS~~B~~ 39.67

Commented [LD11]: We discuss this access in detail a bit later on.
To consider flow and placement of support some more when drafting final report.
This thought is not quite well enough supported here.

- In a joint defined benefit plan, the sponsors form a control group. When looking at whether the sponsors can access future contribution reductions or a withdrawal of surplus in meeting the asset definition for the plan as a whole the rights of the sponsors collectively should be considered.
- There is considerable case law in Canada addressing single sponsor plans and the ability of that sponsor to either withdraw surplus from the plan or take contribution holidays. Critical to assessing the ability of the sponsor to withdraw surplus or take contribution holidays is the plan text; clear rights within the plan text can support the sponsor's right to withdraw surplus or take contribution holidays. However, when the plan text is not clear, there may be legal uncertainties as to whether the sponsor "owns" the surplus. Withdrawal of surplus by the sponsor is generally subject to regulatory and legal hurdles, such as either approval by the Financial Services Commission of Ontario approval with a court order an arbitration award or an agreement between employer and members for any surplus withdrawal?. Therefore under case law it is generally considered that a sponsor does not have a legal right to withdraw a surplus until these hurdles have been passed, unless there is a clear right in the plan text.
- Conversely, if the plan text is not clear on the right of a sponsor to be able to reduce contributions, generally Canadian case law would support that the sponsor has the right and ability to utilize surplus through contribution holidays.
- An analysis of the plan documents for OTPP and OPSEU indicate that in both plans the sponsors negotiate and agree on contribution rates. This means that collectively the sponsors can exercise their shared control to reduce future contributions to the plan and access their portion of the economic resource in the form of future economic benefits. In the case of OTPP the government can benefit from the economic resource through the negotiation process over contributions required to make the actuarial valuation actuarially balanced. Similarly the government can benefit from any OPSEUPP asset through their ability to ~~bargain~~ utilize their allocated 50% of any actuarial ~~gains~~surplus to reduce contributions.

- PS 3320 applies to contingent assets which are defined as "possible assets arising from existing conditions or situations involving uncertainty. That uncertainty will ultimately be resolved when one or more future events not wholly within the public sector entity's control occurs or fails to occur. Resolution of the uncertainty will confirm the existence or non-existence of an asset". ~~The implication of a~~A contingent asset is ~~that it is~~ not recognized in financial statements because there is uncertainty as to whether an asset exists. An accrued benefit asset is not an uncertain economic resource. While there is ~~measurement~~ uncertainty regarding the measurement of an accrued benefit

Commented [LD12]: To Panel: In fleshing out the first section, I felt that these items did not fit well in the "nature of pension plans" section, so suggest moving them here as they relate to the recognition issues. However, would like feedback on whether this revised flow works or these should be moved back.

Commented [LD13]: Question for Murray – is this in the right place?
This sentence was in the bulleted draft, however, not clear whether this relates only to legal uncertainties over the surplus (i.e. withdrawal) or is a more general comment covering contribution holidays. If the latter then it should be moved somewhere else.

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Commented [PO14]: True? I thought that contributions to the plan became trusteed assets and all withdrawals required approval.

asset due to the necessity of making ~~a number of~~ actuarial assumptions regarding demographic and financial ~~actuarial assumptions~~factors as well as fair values of plan assets, there is no uncertainty as to whether the plan exists, and therefore over the underlying existence of any estimated accrued benefit asset as an economic resource. PS 3320 notes that “The mere fact that an estimate of an amount is involved (measurement uncertainty) does not, in and of itself, constitute the type of uncertainty that characterizes a contingent asset”. The extent of the economic resource becomes clear as measurement uncertainty is resolved not as future events occur or fail to occur. As such, PS 3320 is not a relevant source of guidance in considering whether an asset exists in respect of an accrued benefit asset.

Panel view

The accounting asset meets the definition of an economic resource because the accrued benefit asset exists and future benefit is available to the sponsors in accordance with the plan documents. There is no existence uncertainty regarding the net pension asset.

3) Definition of an asset - Control

- The definition of an asset under PSAS requires ~~that~~ an economic resource ~~is~~ to be controlled by a Government. PS 3210.16 ~~expands on~~discusses the application of this control requirement noting that control exists when a government can benefit from economic resource, when they can deny or regulate access to the resource, and when they are exposed to risks associated with the economic resource.
- An accrued benefit asset in a joint defined benefit plan ~~still~~ meets the asset definition from the perspective of a joint sponsor as the joint sponsor is exposed to risks associated with the resource as they are exposed to risk of plan surplus changing from a change in actuarial assumptions. ~~The government~~Each sponsor may also regulate access to the resource because joint control means that ~~they~~ each must agree to any changes to the plan text or contractual arrangement and as such can deny the other sponsor access to the resource to the extent that joint decisions must be made over the use of the asset.
- As noted above in the case of OTPP and OPSEU the government can benefit from the economic resource.
- Shared control means that ~~there is control, but that~~ control over the plan as a whole is exercised through the joint sponsors as a control group. The contractual arrangements for OTPP and OPSEUPP set out how that joint control is

exercised, including how surpluses and deficits are dealt with. In the context of PS 3250, the defined benefit guidance is to be applied to each plan, and then the members of control group each pick up their share. This shared control relationship contrasts with participating employers that are not part of the control group, as those employers ~~do~~ are not able to regulate or deny access to the plan assets and therefore cannot control access to the economic resource of a net plan asset.

- By definition, a joint sponsor of a JDBP ~~does~~ cannot have unilateral control or unilateral rights to the surplus of a JDBP. Instead there is an agreed upon, pre-determined process.~~,~~ ~~with~~ That process provides certainty that a conclusion on the use of any surplus will be reached ~~and~~ with the expectation that the outcome of the process will be an equitable sharing of any surplus, as equitable sharing is a key characteristic of a JDBP.
- There are other examples in PSAS where joint control results in asset recognition. PS 3060 requires asset recognition for government ~~business~~ partnerships subject to shared control using the modified equity method. Similarly, PS 3060 requires proportionate consolidation for other government partnerships, which results in a government recognizing a proportionate share of the capital assets held under joint control, for example, even though the government cannot control the use of that asset unilaterally. If a jointly controlled asset cannot meet the recognition criteria for an asset then it would logically follow that no investments in government partnerships could be recognized. As it is, such assets are recognized by governments applying PSAS in their public accounts. The ~~same~~ logic that shared control can ~~still~~ result in asset recognition should apply to a pension asset of a JDBP.
- PS 3250 does require ~~that there is~~ an existing legally enforceable right to recognize an asset based on the withdrawal of a surplus. This does not mean that there has to be a legally enforceable right to reduce contributions to the plan in the future in order to have control of the economic resource. Under pension law, withdrawal of pension surplus ~~have~~ has different legal characteristics from contribution holidays. The former requires that assets already paid into a trust and for which no claim is clearly retained in the plan document, is reclaimed?. The latter, which is also a form of economic benefit, requires that assets are not paid into a trust in the future and that the existing claim on those assets is not given up by the sponsor.? This is a distinction established in law, and in the view of the Panel, the requirements of PS 3250 paragraph 59 are intended to be applied to the more complex legal context of surplus withdrawal, rather than a broader context of contribution holidays.

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Panel view

Unilateral control is not a requirement for asset recognition. An asset subject to joint control can ~~still~~ be recognized under PSAS. The joint sponsors jointly control the entire net pension asset, and can recognize an asset relating to their portion of that jointly controlled asset.

Panel View - Recognition

PS 3250 requires the *recognition* of an asset for the government's portion of the plan surplus for both plans.

Those assets may require a valuation allowance. The measurement of those assets is addressed in the next section.

Measurement issues

Overview of guidance on measurement of an accrued benefit asset

- A primary source of GAAP should apply if it exists. PS 3250 paras 50-59 provide~~s~~ guidance on measuring any accrued benefit asset that results when the plan assets are measured at an amount greater than the accrued benefit obligation. As the guidance on defined benefit plans is applied to JDBPs prior to the government recognizing its portion of the plan, the valuation guidance should also be applied to the plan as a whole, prior to the joint sponsors recognizing their respective portions of the result.
- If applying the guidance in PS 3250 results in an amount of an accrued benefit asset for the plan after a valuation allowance has been applied, if necessary, then by definition this amount equates to the expected future benefit that the sponsors can access in the plan and its portion would be eligible for asset recognition in the books of the joint sponsor.
- PS 3250 defines an accrued benefit asset as "the amount of any asset recognized on a government's statement of financial position in respect of employee retirement benefits before deducting any valuation allowance that may be required. It is the sum of the government's accumulated cash contributions less the sum of the current and prior years' benefit expenses (before any change in the valuation allowance)."
- Accrued benefit asset is adjusted for ~~any~~ net unamortized losses, if any, before testing for the valuation allowance to give the adjusted benefit asset. "Adjusted

benefit asset is an accrued benefit asset less the amount, if any, by which the aggregate of any unamortized actuarial losses exceeds the aggregate of any unamortized actuarial gains.” This is because the net unamortized losses will ~~unwind~~ reduce the accrued benefit asset automatically over time based on the accounting model in PS 3250. No adjustment is made for net unamortized gains as these would only increase the accrued benefit asset. In the case of OTPP and OPSEUPP there are net unamortized gains, and so the accrued benefit asset equals the adjusted benefit asset.

- PS 3250 requires ~~that~~ the expected future benefit ~~is~~ to be compared to the adjusted benefit asset
- PS 3250 specifies how the expected future benefit is to be calculated:
  A government determines its expected future benefit as the sum of:

a) the present value of its expected future accruals for service for the current number of active employees, less the present value of required employee contributions and minimum contributions the government is required to make regardless of any surplus; and

b) the amount of the plan surplus that can be withdrawn in accordance with the existing plan and any applicable laws and regulations.

1) Impact of legally enforceable rights on calculation of expected future benefit amount

- PS 3250 uses the phrase “expected future benefits”. This language indicates that future benefits only have to be expected, they do not have to be certain. Under the standard there are two ways that expected future benefits may be realized – through the withdrawal of~~r~~ surplus or through using the surplus to ~~fund~~ pay for ~~the expense of~~ benefits earned by members in future periods – that is, paying lower contributions into the plan in the future, often referred to as a “contribution holiday”.
- The panel did not put any emphasis on expected future benefits arising from withdrawal of plan ~~surplus~~assets, as the Provincial Government does not expect to benefit from surpluses through a withdrawal, and there is no explicit right for the sponsors to claim a withdrawal from the plans. In fact OPSEUPP explicitly states that the sponsors are not entitled to have any surplus paid out of the plan, and both OTPP and OPSEUPP plans state that upon wind up any surplus must be used to the benefit of members.
- PS 3250 paragraph 52 notes that the expected future benefits may be ~~impacted~~ affected if a government is not entitled to benefit fully from those expected future benefits or there are uncertainties as to the legal right to use a plan surplus. Such limitations might occur when there is an explicit restriction in the plan text that employers must always match the members’ contributions, which might limit the

Commented [PO15]: Emphasize that this is the same language used in the definition of any asset.

government's ~~entitlement~~ ability to benefit fully from future reductions in contributions. However, in the OTPP there is no such restriction. The government's ~~match to members'~~ contribution~~s~~ required by the Teachers' Pension Act is limited to a maximum of the members' contributions. The current arrangement that the employers match a prior years' contribution level by members is by agreement of the joint sponsors and may be changed in the future as part of the negotiations to create an actuarially balanced funding valuation. Similarly, for OPSEUPP the plan text agreed to matching employer/member contributions, but this may also be changed through the exercise of shared control with the other joint sponsor. It should also be noted that contributions would be matched if both employer and employee contributions were reduced. This is clearly contemplated in the OTPP FMP as both are currently contributing in excess of the normal "run rate" for contributions.

- Ultimately, all the decisions regarding plan contributions and plan benefits rest~~s~~ with the joint sponsors and there are no legal uncertainties regarding the sponsors' rights, as joint sponsors, to determine contribution and benefit levels. It is clearly laid out in the legal and contractual arrangements of both OTPP and OPSEUPP.
- PS 3250 paragraph 59 requires a legally enforceable right to exist before an expected future benefit can be recognized for a withdrawal or surplus. The Panel believes that these requirements apply specifically to the expected future benefits of paragraph 56 (b) and not to the amounts calculated in accordance with 56 (a) amounts. Each sentence in paragraph 59, ~~excluding~~ other than the last sentence, ~~in paragraph 59~~ specifically refers to a withdrawal of assets from the plan. Legally speaking, and consistent with the plan text~~s~~ of OPSEUPP, a contribution holiday is not the same as a withdrawal of surplus - these are two separate concepts.
- The last sentence in paragraph 59 ~~does~~ refers to changes in the allocation of surplus. OTPP and OPSEUPP existing plan documents govern the allocation of surplus or provide the process on to how to agree the allocation of surplus on an equitable basis. In the case of OTPP, there is no ~~requirement~~ need to change~~s~~ the existing allocation of surplus or the existing rights within the contractual arrangement in order for the government joint sponsor to use ~~their~~ its existing rights under the shared control arrangement to negotiate an expected future benefit. In the case of OPSEUPP, the surplus is currently allocated to each joint sponsor the form of their respective stabilization reserve pools. A change to the plan documents would be needed to alter this arrangement and would affect the accounting when it became effective.

Panel View

- A joint sponsor does not have to have a unilateral legally enforceable right to reduce future contributions at the balance sheet date to have an expected future benefit under paragraph 56 (a).

2) Calculation of the present value of expected future accruals for service for the current number of active employees

- PS 3250 provides ~~further~~ guidance on how to calculate the present value of expected future accruals for service for the current number of active employees.
- Under this guidance, this amount is determined on a basis consistent with the accrued benefit obligation. The calculation is based on an open group~~-~~, which ~~is the idea~~assumes that the current number of employees will exist ~~for~~ in perpetuity. This is generally recognized in practice as being an appropriate assumption for the application of this test under PSAS, unless ~~there is an expected~~a significant change in the number of members is expected, for example because a plan is closed to new members or because of a planned restructuring. The panel is not aware of any such changes that are expected for either OTPP or OPSEUPP.
- The guidance notes that in addition to the expected future accrual for service, the expected administrative and investment expenses to be paid out of the plan can been included in the calculation, if they are not already taken into account in the expected return of assets rate.
- The Panel suggests that the Province might consider to what extent the expenses paid out of the plans could be ~~added to~~ included in the determination of the economic benefit.

3) What are the "minimum contributions the government is required to make regardless of any surplus"

- The objective of the test in paragraph 56 (a) is to determine whether a sponsor will be able to obtain expected future benefit from an existing surplus~~,~~ by reducing ~~their~~ its contributions below the expected cost of benefits for future services to be provided under the plan.
- The purpose of the minimum contributions test is to determine whether ~~there are~~ requirements exist that would make a sponsor continue to make contributions ~~cash~~ at a certain level, even when there are plan surpluses, and thus make it impossible for the sponsor to obtain a reduction in ~~cash~~ contributions to the plan.
- For a single sponsor plan, common practice in Canada under pension legislation is to consider that the sponsor can take a contribution holiday unless ~~they have~~it has made a commitment to match the contributions of the members regardless of

Commented [LD16]: Note – this analysis does not mention the FMP and funding zones etc.
Panel to advise if this should be added in anywhere and if so, where?

any surplus in the plan. The Panel concluded~~s~~ that~~, following the guidance in PS 3250 that the plan is accounted for as a whole using the Defined Benefit guidance and then the government picks up its portion of the plan, a similar logic should apply to JDBPs –~~ the joint sponsors can take a contribution holiday unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan.

- A question arises as to whether the surplus that is contemplated in the phrase "regardless of any surplus" is an accounting surplus or a funding surplus. The panel understands that in practice actuaries interpret this ~~in practice~~ to be funding surplus and not accounting surplus, and that if any contributions are required when there is a funding surplus these would be minimum contributions.
- There is also a question as to whether a joint sponsor can create a minimum contribution requirement on the other joint sponsor because shared control means that both sponsors must agree to any change in contribution levels.~~,~~ ~~t~~Therefore, absent any agreement, the existing contribution levels are "fixed" and cannot be changed. However this view would not be consistent with the notion that the valuation allowance is being applied to the plan as a whole, with the joint sponsors able to collectively control the contribution levels under the plan arrangements. Equal reduced contributions for both members and employers benefit both joint sponsors
- It is relevant to note that as OTPP always requires an actuarially balanced valuation allowance to be filed, there is no funding surplus that arises, as any preliminary funding surplus must be dealt with through the negotiation process. A funding surplus could arise prior to the filing of the next actuarially balanced funding valuation, as this must occur only once every three years. However, the joint sponsors can agree to file a funding valuation every year if they choose, to rebalance the contributions, reserves, and benefits of the plan. As the joint sponsors must agree on the contribution levels and make corresponding changes to the plan ~~text~~ if necessary, there are no "minimum contributions" that must be made, regardless of any surplus, as there is no minimum level of contributions that must be agreed upon by the joint sponsors. They can agree to any level of contributions as long as the result is~~n~~ actuarially balanced and so the level of surplus absolutely affects the contributions that are determined by this negotiation process. While it might be expected that some level of contributions will be made in the future to fund the benefits cost of future services, there is no method of determining under the contractual arrangements what this would be, given that the level is subject to negotiation~~ and must be negotiated~~. As such the "minimum contributions" cannot be determined.
- Similarly, for OPSEUPP the stabilization reserves act as limits on the amount of funding surplus that accrues~~d~~ in the plan. Whether these stabilization reserves

are used to reduce contributions or are maintained as a buffer against variability on contribution rates is at the discretion of the joint sponsor. This is very similar to the ability that a single sponsor has to reduce contributions or maintain a reserve as a buffer for future changes in actuarial assumptions.

- The Panel noted that a number of calculations regarding the expected future benefit for both OTPP and OPSEU were made, based on different assumptions regarding what were the minimum contributions required under each plan. For example, scenarios included minimum contributions as the agreed upon contribution until the next mandatory negotiations in three years; minimum contributions as the currently agreed upon contributions for a longer period; and minimum contributions ~~as~~ equal to the currently agreed upon contributions until certain ~~limited~~ limitations on contributions under the Income Tax Act would be expected to kick in. These various views exist because the standard does not currently provide clear guidance on how to apply the definition of "minimum contributions regardless of any surplus".

- If no expected future benefit to Gov't sponsor, then is also no expected future benefit to joint sponsor. Does this make sense? Is this consistent with public expectations and expectations of the other sponsor?

Panel view - Measurement

- Based on the analysis of the plan arrangements for OTPP and OPSEUPP, the level of minimum contributions required regardless of any surplus is lower than the present value of expected future accruals for service for the current number of active employees. This conclusion holds true for all scenarios identified above. All things being equal this creates headroom that could support the recognition of an amount in respect of the net pension asset of OTPP and OPSEUPP?.
- Recommendations to province – be mindful that if have a funding surplus and have a legal requirement to continue to contribute could be minimum contributions.

Recommendations to PSAB Employment Future Benefits Task Force

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Commented [PO17]: Other than one negotiated with the other sponsor? If the sponsors agree to increase the surplus, like OTPP, to create stabilization and adverse deviation reserves, are those minimum contributions that affect the calculation?

Commented [LD18]: These are currently in no particular order. Panel to advise as to ranking?

Application of guidance to Joint defined benefit plans

- The Panel notes that the standard is not clear on how the ability to access expected future benefits should be applied in the context of Joint Defined Benefit Plans. A clarification on how the guidance in PS 3250.81 should be applied (Interpretation A or Interpretation B) would be helpful.

Minimum contributions

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that funding valuations drive decision making over plan funding including contribution increases or reductions by sponsors. However, funding valuations may result in net pension assets or liability that are very different from the accounting net pension asset or liability. This results in a lack of clarity ~~over~~ about whether minimum contributions may be ~~made~~ required "regardless of any surplus" and whether a sponsor will be able to access an accounting surplus when the funding surplus is much smaller, or is a funding liability. There is some difficulty in determining what are minimum contributions in the context of joint DB plans when future contributions are dependent on the funded status of the plan and negotiation.
- For example, should the minimum contributions test be based on accounting surplus or funding surplus? Is it a present surplus or can it be a projected future surplus? Additional clarity on what constitutes a "minimum contribution" could increase consistency of application of this guidance for joint defined benefit plans [and single sponsor plans? yes].

Deferral accounting

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that the existing deferral provisions have the potential to result in an asset being recognized on financial statements when there is no underlying economic resource. Although this is not the case for either the OTPP or the OPSEUPP, this could occur when unamortized losses exist such that despite the the fair value of the plan assets being less than the estimated accrued benefit obligation, an accrued benefit asset could still be presented. This can be confusing to users of the financial statements as it is not transparent as to the underlying economic resource of the plan. Transparency is in the public interest. and transparency would suggest that it is important to recognize all liabilities or assets that exist and not to recognize assets where there is no underlying resource that gives rise to future economic benefit. Any mechanisms used to deal with potential income statement volatility concerns should ensure that these do not result in lack of transparency on the balance sheet. [Reference to IPSAS 39]

Discount rates

- The Panel supports PSAB examining discount rates for employment benefits. The Panel understand that in the public sector a sponsor borrowing rate is often used for unfunded plans and an asset return rate is used for funded plans. An appropriate asset return rate will vary depending on how assets are invested. The discount rates used by public sector entities ~~may~~ is also likely to be different tha~~e~~n the discount rates used in the Plan's own financial statements prepared under Part IV of the CPA Canada Handbook – Accounting, resulting in significantly different measurements of accrued benefit obligations for the same plan in different financial statements. This inconsistency ~~could be~~is confusing to users.

  The Panel observes that many more recent accounting pronouncements relating to liability measurement require that the discount rate used to measure the liability capture the risks inherent in that liability. The panel suggests that the Employment Benefit Task Force consider whether the method intended to be used to settle an obligation should affect how that obligation is measured and how the risks inherent in the obligation are best captured either in the discount rate or in other aspects of the measurement of the obligation.

Funding valuation

- As a funding valuation may result in a funding surplus or deficit that is very different ~~than~~ from the accounting surplus or deficit this may be confusing to some users where both measures are presented in the same document.
- The Panel believes it may be beneficial to include additional discussion in a revised standard or other material about how the objectives and assumptions in funding valuations may differ from those used in the accounting valuation and why.
- The Panel suggests that a disclosure highlighting the quantitative differences in the funding valuation compared to the accounting valuation should be made in the financial statements of pension plans and/or in the financial statements of sponsors when information on the funding valuation of a plan is also made public or available to the same users of the financial statements. This would be

Commented [LD19]:
Is this going to far?
Otherwise, have to think about how we highlight that this recommendation is to AcSB and not PSAB/Task force.

useful to users as it would provide additional context for both the accounting and funding valuations.

APPENDIX A – PENSION PLAN GOVERNING ARRANGEMENTS

OTPP

- The *Teachers' Pension Act*, R.S.O. 1990, c.T.1 (Link to the Teachers' Pension Act);
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The plan text for OTPP;
- An agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Minister of Education and Training and The Ontario Teachers' Federation represented by its Executive, dated July 15, 1991, as amended (The Partners' Agreement);
- A Funding Management Policy, attached as Appendix A to the Partners' Agreement (FMP).

OPSEU

- The Ontario Public Service Employees' Union Pension Act, 1994 S.O. 1994, c 17, s.143 Sched (Link to the Ontario Public Service Employees' Union Pension Act)
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The sponsorship agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Chair of the Management Board of Cabinet and the Ontario Public Service Employees' Union, dated April 18, 1994, as amended (The Sponsorship Agreement);
- The Agreement and Declaration of Trust of OPSEU Pension Plan Trust Fund, dated October 25, 1994, as amended (The Trust Agreement);
- The plan text for OPSEUPP;
- OP Trust Funding policy.

Appendix B - Accounting references

Commented [LD20]: Current parking lot – to be completed and refined .

IPSASB 39. 67. A net defined benefit asset may arise where a defined benefit plan has been overfunded or where actuarial gains have arisen. An entity recognizes a net defined benefit asset in such cases because:

(a) The entity controls a resource, which is the ability to use the surplus to generate future benefits;

(b) That control is a result of past events (contributions paid by the entity and service rendered by the employee); and

(c) Future economic benefits are available to the entity in the form of a reduction in future contributions or a cash refund, either directly to the entity or indirectly to another plan in deficit. The asset ceiling is the present value of those future benefits

Appendix C

- Compare to BC and NB plans. Key differences here is that documents, including the contribution rates, can change if agreed upon by joint sponsors.

Commented [NT21]: o/s need to understand why the AG referred to these – is there a concern that we need to address that we have not yet.

2 - PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v2 to’m.docx

PENSION ASSET EXPERT ADVISORY PANEL

[DRAFT] REPORT

[NTD - o/s Cover letter? (including mandate summary)

Executive Summary]

Mandate of the Panel

- Pension Asset Expert Advisory Panel (the Panel) was formed to address
  - The requirement regarding control with respect to recognizing a pension asset for a joint defined benefit plan
  - The requirement regarding control with respect to recognizing a pension asset for other pension plans
  - Appropriate valuation techniques to measure a pension asset that take into consideration future decision making authority by plan sponsors
  - Recommendations to the Employee Future Benefits Task Force of the Public Sector Accounting Board regarding issues that should be considered in its review of the retirement and post-employment benefits standards.

- Looked at recognition and measurement of pension assets arising in certain jointly sponsored pension plans (specifically, the Ontario Teachers' Pension Plan (OTPP) and the Ontario Public Service Employees' Union Pension Plan (OPSEUPP), collectively the "Plans") in accordance with Canadian public sector accounting standards (PSAS).

- The recognition and measurement of pension assets arising in other plans, such as the Healthcare of Ontario Pension Plan (HOOPP) and the Colleges of Applied Arts and Technology Pension Plan (CAATPP) will be covered in a later supplemental report that considers the different attributes of these plans

Nature of the pension plans examined

- Pension plans are not all alike. Each pension plan has distinct contractual and other arrangements that must be considered in assessing the accounting for that plan.
- The relevant legislative acts and contractual arrangements governing the Plans that were considered by the Panel are listed in Appendix A.
- While the Provincial Government has the legislative ability to change the relevant Acts, it has also entered into contractual arrangements with the employee sponsor(s). For accounting purposes the existing contractual agreements are past transactions and are used for assessing existing rights and powers under the arrangements. Changes to the contractual arrangements (or a government's ability to set aside a contract using sovereign power) are not considered unless, or until, any such changes ~~were to~~ become effective.
- Under pension legislation (Pension Benefits Act), there are several categories of defined benefit plans. Jointly sponsored pension plans are a separate category from single sponsor plans or multi-employer plans and have different regulatory requirements.
- Similarly, under PSAS there are several categories of defined benefit plans, which include joint defined benefit pension plans (JDBPs) as a separate category from single sponsor or multi-employer plans.
- In JDBP~~'~~s a government sponsor shares the risks and rewards of a defined benefit plan with plan participants, represented by a sponsor or sponsors. The key characteristic of a JDBP is that there is a formal agreement between the sponsors which establishes~~d~~ that the sponsors have shared control over the plan. By definition, neither sponsor has unilateral control over the plan, as joint control (shared decision making) is an ~~inherent~~ essential requirement for a JDBP.
- Other characteristics of JDBPs include:
    - Funding contributions are shared mutually between the government and plan members
    - The sponsors have shared control over decisions related to ~~the administration of the plan and~~ the level of benefits and contributions on an ongoing basis based on the terms of the contractual agreement as well as arrangements for the administration of the plan
    - The sponsors share, on an equitable basis, the significant risks, both positive and negative, associated with the benefit plan.

- Historically, OTPP was a single sponsored plan until 1992 when it was converted to be a jointly sponsored pension plan (PBA) and became a joint defined benefit plan for accounting purposes. OPSEUPP was carved out of the Public Service Pension Plan (a single sponsor plan) in 1995 and established as a jointly sponsored pension plan (PBA) and a joint defined benefit plan for accounting purposes.

- The motivation for making these changes was ~~so~~ for the Provincial Government ~~could~~ to transfer a share of the risks of the obligation to the members of the plans. In return for taking on a share of the risk of the obligation, the members received an equitable share of any surplus in the plan (both the upside and downside of plan performance are equitably shared) and the member Sponsors received the right to participate in shared control of the plan, meaning both parties to agree to significant plan decisions such as plan structure, benefits available under the plan, contribution rates, funding levels and other policy decisions.
- As both the funding risk and rewards and the governance of the plan are shared between the employer sponsor(s) and the employee sponsor(s) the move from a single sponsored plan to a jointly sponsored plan was considered to be a fair deal for both sides while achieving a public policy aim of~~r~~ reducing the risk of the obligation to the Provincial Government.

Commented [LD1]: This was the language in my notes, but perhaps there is a better way of phrasing this? “an equitable economic arrangement”?

- The fundamental difference between single sponsor defined benefit plans and joint sponsor defined benefit plans is that the control that a single sponsor would have over setting contribution rates and benefits has been replaced with joint control over those decision. The sharing of the risks and rewards of the pension plan on an equitable basis is consistent with the sharing of control over those policies that influence the outcomes of the pension plan.

OTPP – Structure and organization

Sponsors

- The OTPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Minister of Education and Training) as the employer Sponsor and the Ontario Teachers’ Federation (represented by its Executive) as the employee Sponsor. The partnership agreement between the joint sponsors sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OTPP is also a multi-employer plan, but these employers are not sponsors.

Decision making

- The OTPP Board is appointed by the joint sponsors and is responsible for the administration of the pension plan, such as investment of assets, payment of benefits, preparation of pension valuations and managing the pension fund.
- The Board does not make any fundamental decisions regarding benefits and contributions as these decisions rest with the joint sponsors' Partners Committee, to which an equal number of representatives are appointed by each sponsor.

Funding arrangements

- The basic funding arrangement in the Teachers' Pension Act is that the employers' contributions shall not exceed those of the members.
- Historically, the Employers have matched the members' contributions, based on the members' contributions in a previous year. This has resulted~~s~~ in contributions being made typically on a 50:50 basis between employers and members (except where specifically agreed otherwise).
- The contractual arrangements require ~~that~~ an actuarial valuation for funding purposes ~~is~~ to be prepared at least once every three years to comply with the *Pension Benefits Act*. This actuarial valuation is required to be "actuarially balanced" – meaning that the benefits and costs to be paid from the fund plus any contingency reserve equals the present value of the members and employers contributions and special payments. A preliminary valuation is prepared based on the existing terms of the plan. ~~but t~~To the extent that this preliminary valuation is not actuarially balanced, the joint sponsors must negotiate and agree what changes to the plan must be made in order to reach an actuarially balanced valuation that will subsequently be filed. This process means there is no funding surplus or deficit in the final funding valuation.
- The changes to the plan agreed upon by the joint sponsors could be to increase or decrease contributions for employers and/or members or to improve benefits payable to members. Negotiation must be made in good faith and if an agreement is not reached within a certain time frame a mediator may be appointed by the joint sponsors, and, if necessary a board of arbitration.
- The joint sponsors have agreed to a Funding Management Policy (FMP) which, although not binding, sets a framework for the sponsors to negotiate the use of any funding surpluses or deficits. The FMP clearly indicates that above a certain funding? range the sponsors can must? negotiate to lower contributions or provide temporary or permanent benefit enhancements.
- The OTPP plan text does not limit the outcomes of the negotiation between the joint sponsors. There is no minimum level or fixed range of contributions by members or employers that cannot be changed through the required negotiations.

Commented [LD2]: Note, it is actually the "year before the preceeding year" to two years previous. Did not think it necessary to get into this detail, but it is why it says "a" previous year not "the" previous year.

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OPSEUPP – Structure and organization

Sponsors

- The OPSEUPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Chair of the management Board of Cabinet) as the employer Sponsor and the Ontario Public Service Employees' Union as the employee Sponsor.
- The joint sponsors established a trust (OP Trust) and the declaration of trust between the joint sponsors and the trustees of OP Trust sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OPSEUPP is also a multi-employer plan, but these employers are not sponsors.

Decision making

- The Trustee Board administers the plan and an equal number of trustees are appointed by each of the Provincial Government and OPSEU.
- The Trustee Board votes on resolutions by majority vote. This means that trustees representing both the Provincial Government and OPSEU must agree. In the case of a deadlock there are agreed upon procedures to ~~determine~~ appoint a temporary 11th trustee, as agreed by both the sponsors (or, if necessary, appointed by? the Chief Justice of Ontario).
- The trustees are responsible for the administration of the OPSEUPP including the investment of assets, payments of benefits, receipt of contributions, preparation and filing of actuarial valuations in accordance with the Pension Benefits Act
- The trustees have no power to amend the plan or the trust agreement. All decisions regarding contribution levels and benefits to be provided under the plan are the responsibility of the sponsors
- Amendments to the trust agreement, plan text and sponsorship agreement require unanimous written consent of the sponsors.

Funding arrangements

- The basic funding arrangement in the OPSEUPP text is that employers match the contributions of the members.
- Funding zone agreements
- Limits (or lack thereof) on negotiation of contributions set by plan text

Commented [LD3]: Confirm this is correct. Sponsor agreement states it is a single employer plan, but other parts of the plan text indicates that it is multi employer with crown corps etc.

Commented [LD4]: I'm not clear on whether this is an administrative Board or a representative Board – please advise.

Commented [PO5]: I thought that if none of the pre-authorized third trustees was available, the decision maker was to **be** the Chief Justice.

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Commented [LD6]: Panel to confirm this is an appropriate summary

- The plan text clearly states that no amount of surplus shall be paid out of the plan to the Provincial Government or any participating employer. However, it is also clearly stated that contribution reductions are not considered to be a pay out of surplus.
- Any net actuarial gains that arise (after funding certain specific transitional liabilities which have now been satisfied?) are to be used equally for the benefit of the sponsors (employers and OPSEU). Specifically, 50% of the gain may be collectively bargained? and used to the benefit of the employers, and 50% of the gain may be collectively bargained and used for the benefit of plan members. There are no restrictions on how each party bargains the use of their surplus. There is no minimum level or fixed range of contributions by members or employers that cannot be changed by agreement of the joint sponsors or through the use of their respective surplus portions.

Commented [LD7]: Check wording against plan text – o/s to find reference.

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Panel view

Both OTPP and OPSEUPP have been accounted for as joint defined benefit plans in the Public Accounts of Ontario accordance with PS 3250 since that standard was issued in 2001.

The panel agrees with the accounting classification of both plans as joint defined benefit plans.

Determination of relevant accounting guidance

- The accounting analysis is performed ~~under~~ in accordance with Public Sector Accounting Principles (PSAS) as issued by the Canadian Public Sector Accounting Board.
- PSAS ~~provides~~ identifies sources of guidance in determining appropriate accounting principles in PS 1150. First must follow any specific standard that relates to the issue under consideration (apply every source of primary GAAP). In this case, PS 3250, *Retirement benefits* is a standard that ~~relates to~~ specifically addresses the accounting for defined benefit pension plans. Further, PS 3250 also defines and contains specific guidance ~~specifically~~ on accounting for joint defined benefit plans.
- If a primary GAAP source, such as PS 3250, is not clear, the government would develop an accounting policy considering other standards within PSAS and Section 1000, *Financial Statement Concepts*.

- A government may also refer to accounting guidance in other GAAP frameworks as long as those frameworks are consistent with PSAS standards and Section 1000 above.

Panel View

- The Panel considered the guidance in PS 3250.
- In addition, the panel noted that there were some areas where PS 3250 is not clear with respect to how the guidance in PS 3250 applies to JDBPs. In these cases the panel referred to relevant other guidance, as identified in the analysis below.

Commented [PO8]: The uncertainty regarding the ceiling test both w.r.t. "minimum contributions regardless of surplus" and the period for which contributions are fixed I think arises for all plans not just JDBPs?

Recognition issues

1) Application of Defined Benefit accounting to Joint Defined Benefit Plans

- PS 3250 Paragraph 81states "When a government participates in a joint defined benefit plan, the government's risk is limited to its portion of the plan. The government should account for its portion of the plan in accordance with the standards for defined benefit plans".
- The panel discussed two possible interpretations of how this guidance is to be applied to JDBPs:
    - Interpretation A) Divide the plan between the sponsors' respective portions, and the government applies the guidance on Defined Benefit plans in PS 3250 only to ~~their~~ its portion;
    - Interpretation B) The government applies the Defined Benefit guidance in PS 3250 to the plan as a whole ~~using~~ and then recognizes only its portion of the plan in its financial statements
- The interpretation of this paragraph affects the perspective through which the asset recognition guidance in PSAS and the guidance on defined benefit plans in PS 3250 is applied (to the plan or the government's portion of the plan).
- For example, under interpretation A, dividing the plan first would entail measuring plan assets at the government's share, determining the accrued benefit obligation at the government's share and then applying the valuation allowance to any net accrued benefit asset that arises.
- Under interpretation B, the assets and accrued benefit obligation amounts for the whole plan are measured in accordance with PS 3250. The valuation allowance guidance is applied to any accrued benefit asset that arises on the plan as a whole. The government then calculates its portion of the accrued benefit asset,

net of any valuation allowance in determining the amount of asset to recognize in the Public Accounts.

- Interpretation B is, in the view of the Panel, a more appropriate answer because it aligns most closely with the concepts of Defined Benefit accounting in PS 3250 and with the economic substance of joint defined benefit plan arrangements.
  - Defined Benefit plan accounting in Financial Statements for all plans is based on a *net* amount of plan assets less accrued benefit obligations. Rather than presenting plan assets as "Assets" of the government and plan liabilities as "Liabilities" of the government these are presented as a net asset or liability, which reflects that the plan is a separate entity. This accounting is more similar to an "equity method" of accounting which reflects the sponsor's interest in the net assets (or net liability) of a plan than to a proportionate consolidation accounting. Therefore it similarly is appropriate to calculate the net assets (or liabilities) in the plan in accordance with accounting standards before determining the sponsor's portion of the plan.
  - The fundamental difference between a single sponsor plan and a joint defined benefit plan is in the latter control is shared and a sponsor has only a portion of the risks and rewards. It would be consistent to calculate the plan net asset or net liability in the same manner as for single sponsor plan – on a whole plan basis – before accounting for the shared control distinction by determining what is the government's portion that net asset or net liability.
  - The contractual arrangements between the Sponsors affect the plan as a whole because there is joint control over the plan as a whole and not unilateral control by each sponsor over ~~their~~ its portion of the plan. For example, there is one funding policy, one Partners' agreement (OTPP) or sponsorship agreement (OPSEUPP), one plan text and so on that govern the respective plans. A determination of the assets and the liabilities can only be made with reference to the plan as a whole. Therefore it also follows that other aspects of the guidance for accounting for defined benefit plans, such as the valuation allowance guidance, should be applied to the plan as a whole prior to determining a ~~government's~~ sponsor's portion. This may be particularly important when the portion is determined on an equitable basis, but not necessarily an equal (50:50) basis
  - An important characteristic of JDBPs is that there is an equitable sharing of the plan which applies to both risks and rewards and is the underlying

Commented [PO9]: This is the key point and should therefore be moved earlier.

~~business~~ economic rationale for a JDBP. It would not be an equitable sharing for a sponsor to have only an obligation for a net liability without any access to a net asset position. One of the implications of Interpretation A is that the sponsors might recognize a liability for their portion of a net liability but be unable to recognize an asset for their portion of a net asset. In the view of the Panel would not faithfully represent the underlying risks and rewards of the arrangement.

  - The Panel believes that if the PSAB had intended joint defined benefit plans to apply the valuation allowance guidance for defined benefit plan accounting only to a portion of the plan they would have provided additional guidance as to how this should be performed.

Commented [PO10]: More importantly, the standard says "follow the DB guidance and then account for your potion".

Application to OTPP and OPSEPP

- The OTPP plan states that the risks [and rewards] are shared between employers and members on an equitable basis, which has historically been ~~on a~~ 50:50 when considered over the long term.
- The OPSEUPP plan indicates that any actuarial gains are allocated ~~to~~ between the employers and members on a 50:50 basis. Each sponsor can ~~and~~ then ~~this portion may be utilized by that party as they determine over time~~utilize its portion as it unilaterally determines. This means that members and employers could utilize their gains at different times, as historically has been the case. This means that the portion of any net asset that relates to the government's share may fluctuate as a percentage of the total net asset balance and may not result in the government having a 50% portion of the net asset at any one time.

Panel View

The Panel believes it is appropriate to apply all aspects of the guidance for accounting for defined benefit plans in PS 3250 to a JDBP prior to determining the government's portion of that plan for recognition ~~within~~ in the financial statements.

2) Definition of an asset – Is there an economic resource

- Under PSAS ~~an~~ assets are defined as "economic resources controlled by a government as a result of past transactions or events and from which future economic benefits are expected to be obtained".
- The resource in question is the accounting accrued benefit asset that arises from applying the accounting guidance in measuring plan assets and the accrued

benefit obligation, including the provisions regarding the deferral of unamortized gains or losses. The accrued benefit asset may be very different from any ~~funding~~ surplus calculated under an actuarial valuation performed for funding purposes. Funding valuations may use different actuarial methods and assumptions, such as a provision for adverse deviations. However, under accounting standards ~~it~~ any surplus represents the best estimate of the accrued benefit obligation and the fair value of the plan assets, as adjusted for the permitted deferral provisions. Notwithstanding there is a degree of measurement uncertainty regarding both the measurement of the plan assets and the accrued benefit obligation, PS 3250 – the primary source of GAAP for retirement benefit plans – clearly requires ~~that~~ such an asset ~~is~~ to be recognized for a single sponsored plan~~s~~. Consistent with the discussion in 1) above, for JDBP plans these requirements are still applicable and this asset should be considered in the context of the plan as a whole, prior to determining what portion of the asset (if any) is the government's share. That is, there is no requirement for the amount of any asset to be precisely determinable under 3250 or any other standard.

- The ~~recognition of an~~ accrued benefit asset recognized for accounting purposes is then subject to the measurement provisions of the valuation allowance guidance (See section on "Measurement" below).

- In addition to the requirement of PS 3250 to recognize an accrued benefit asset, the Panel also noted the following guidance indicates that an accrued benefit asset in a JDBP represents an economic resource that gives rise to future economic benefits:
    - PSAS provides additional guidance on economic resources and future economic benefits in PS 3210, *Assets,* which is effective from April 1, 2017. An economic resource embodies value because it enables an entity to meet its objectives, such as the provision of public goods and services, redistribution of wealth, generation of cash inflows or reduction of cash outflows. An accrued benefit asset in a pension plan is a resource because it can be used to generate future benefits. This view is confirmed by guidance in IPSAS~~B~~ 39.67
    - The economic resource (plan surplus for accounting purposes) can provide future economic benefits to the joint sponsors in the form of a reduction of cash outflows in the future because it can be used to reduce future contributions, as long as the sponsors are expected to be able to access those future contribution reductions (3210.04(a)). This view is confirmed by guidance in IPSAS~~B~~ 39.67

Commented [LD11]: We discuss this access in detail a bit later on.
To consider flow and placement of support some more when drafting final report.
This thought is not quite well enough supported here.

- In a joint defined benefit plan, the sponsors form a control group. When looking at whether the sponsors can access future contribution reductions or a withdrawal of surplus in meeting the asset definition for the plan as a whole the rights of the sponsors collectively should be considered.
- There is considerable case law in Canada addressing single sponsor plans and the ability of that sponsor to either withdraw surplus from the plan or take contribution holidays. Critical to assessing the ability of the sponsor to withdraw surplus or take contribution holidays is the plan text; clear rights within the plan text can support the sponsor's right to withdraw surplus or take contribution holidays. However, when the plan text is not clear, there may be legal uncertainties as to whether the sponsor "owns" the surplus. Withdrawal of surplus by the sponsor is generally subject to regulatory and legal hurdles, such as either approval by the Financial Services Commission of Ontario approval with a court order an arbitration award or an agreement between employer and members for any surplus withdrawal?. Therefore under case law it is generally considered that a sponsor does not have a legal right to withdraw a surplus until these hurdles have been passed, unless there is a clear right in the plan text.
- Conversely, if the plan text is not clear on the right of a sponsor to be able to reduce contributions, generally Canadian case law would support that the sponsor has the right and ability to utilize surplus through contribution holidays.
- An analysis of the plan documents for OTPP and OPSEU indicate that in both plans the sponsors negotiate and agree on contribution rates. This means that collectively the sponsors can exercise their shared control to reduce future contributions to the plan and access their portion of the economic resource in the form of future economic benefits. In the case of OTPP the government can benefit from the economic resource through the negotiation process over contributions required to make the actuarial valuation actuarially balanced. Similarly the government can benefit from any OPSEUPP asset through their ability to ~~bargain~~ utilize their allocated 50% of any actuarial ~~gains~~surplus to reduce contributions.

- PS 3320 applies to contingent assets which are defined as "possible assets arising from existing conditions or situations involving uncertainty. That uncertainty will ultimately be resolved when one or more future events not wholly within the public sector entity's control occurs or fails to occur. Resolution of the uncertainty will confirm the existence or non-existence of an asset". ~~The implication of a~~A contingent asset is ~~that it is~~ not recognized in financial statements because there is uncertainty as to whether an asset exists. An accrued benefit asset is not an uncertain economic resource. While there is ~~measurement~~ uncertainty regarding the measurement of an accrued benefit

Commented [LD12]: To Panel: In fleshing out the first section, I felt that these items did not fit well in the "nature of pension plans" section, so suggest moving them here as they relate to the recognition issues. However, would like feedback on whether this revised flow works or these should be moved back.

Commented [LD13]: Question for Murray – is this in the right place?
This sentence was in the bulleted draft, however, not clear whether this relates only to legal uncertainties over the surplus (i.e. withdrawal) or is a more general comment covering contribution holidays. If the latter then it should be moved somewhere else.

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Commented [PO14]: True? I thought that contributions to the plan became trusteed assets and all withdrawals required approval.

asset due to the necessity of making ~~a number of~~ actuarial assumptions regarding demographic and financial ~~actuarial assumptions~~factors as well as fair values of plan assets, there is no uncertainty as to whether the plan exists, and therefore over the underlying existence of any estimated accrued benefit asset as an economic resource. PS 3320 notes that "The mere fact that an estimate of an amount is involved (measurement uncertainty) does not, in and of itself, constitute the type of uncertainty that characterizes a contingent asset". The extent of the economic resource becomes clear as measurement uncertainty is resolved not as future events occur or fail to occur. As such, PS 3320 is not a relevant source of guidance in considering whether an asset exists in respect of an accrued benefit asset.

Panel view

The accounting asset meets the definition of an economic resource because the accrued benefit asset exists and future benefit is available to the sponsors in accordance with the plan documents. There is no existence uncertainty regarding the net pension asset.

3) Definition of an asset - Control

- The definition of an asset under PSAS requires ~~that~~ an economic resource ~~is~~ to be controlled by a Government. PS 3210.16 ~~expands on~~discusses the application of this control requirement noting that control exists when a government can benefit from economic resource, when they can deny or regulate access to the resource, and when they are exposed to risks associated with the economic resource.
- An accrued benefit asset in a joint defined benefit plan ~~still~~ meets the asset definition from the perspective of a joint sponsor as the joint sponsor is exposed to risks associated with the resource as they are exposed to risk of plan surplus changing from a change in actuarial assumptions. ~~The government~~Each sponsor may also regulate access to the resource because joint control means that ~~they~~ each must agree to any changes to the plan text or contractual arrangement and as such can deny the other sponsor access to the resource to the extent that joint decisions must be made over the use of the asset.
- As noted above in the case of OTPP and OPSEU the government can benefit from the economic resource.
- Shared control means that ~~there is control, but that~~ control over the plan as a whole is exercised through the joint sponsors as a control group. The contractual arrangements for OTPP and OPSEUPP set out how that joint control is

exercised, including how surpluses and deficits are dealt with. In the context of PS 3250, the defined benefit guidance is to be applied to each plan, and then the members of control group each pick up their share. This shared control relationship contrasts with participating employers that are not part of the control group, as those employers ~~do~~ are not able to regulate or deny access to the plan assets and therefore cannot control access to the economic resource of a net plan asset.

- By definition, a joint sponsor of a JDBP ~~does~~ cannot have unilateral control or unilateral rights to the surplus of a JDBP. Instead there is an agreed upon, pre-determined process.~~,~~ ~~with~~ That process provides certainty that a conclusion on the use of any surplus will be reached ~~and~~ with the expectation that the outcome of the process will be an equitable sharing of any surplus, as equitable sharing is a key characteristic of a JDBP.
- There are other examples in PSAS where joint control results in asset recognition. PS 3060 requires asset recognition for government ~~business~~ partnerships subject to shared control using the modified equity method. Similarly, PS 3060 requires proportionate consolidation for other government partnerships, which results in a government recognizing a proportionate share of the capital assets held under joint control, for example, even though the government cannot control the use of that asset unilaterally. If a jointly controlled asset cannot meet the recognition criteria for an asset then it would logically follow that no investments in government partnerships could be recognized. As it is, such assets are recognized by governments applying PSAS in their public accounts. The ~~same~~ logic that shared control can ~~still~~ result in asset recognition should apply to a pension asset of a JDBP.
- PS 3250 does require ~~that there is~~ an existing legally enforceable right to recognize an asset based on the withdrawal of a surplus. This does not mean that there has to be a legally enforceable right to reduce contributions to the plan in the future in order to have control of the economic resource. Under pension law, withdrawal of pension surplus ~~have~~ has different legal characteristics from contribution holidays. The former requires that assets already paid into a trust and for which no claim is clearly retained in the plan document, is reclaimed?. The latter, which is also a form of economic benefit, requires that assets are not paid into a trust in the future and that the existing claim on those assets is not given up by the sponsor.? This is a distinction established in law, and in the view of the Panel, the requirements of PS 3250 paragraph 59 are intended to be applied to the more complex legal context of surplus withdrawal, rather than a broader context of contribution holidays.

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Panel view

Unilateral control is not a requirement for asset recognition. An asset subject to joint control can ~~still~~ be recognized under PSAS. The joint sponsors jointly control the entire net pension asset, and can recognize an asset relating to their portion of that jointly controlled asset.

Panel View - Recognition

PS 3250 requires the *recognition* of an asset for the government's portion of the plan surplus for both plans.

Those assets may require a valuation allowance. The measurement of those assets is addressed in the next section.

Measurement issues

Overview of guidance on measurement of an accrued benefit asset

- A primary source of GAAP should apply if it exists. PS 3250 paras 50-59 provide~~s~~ guidance on measuring any accrued benefit asset that results when the plan assets are measured at an amount greater than the accrued benefit obligation. As the guidance on defined benefit plans is applied to JDBPs prior to the government recognizing its portion of the plan, the valuation guidance should also be applied to the plan as a whole, prior to the joint sponsors recognizing their respective portions of the result.
- If applying the guidance in PS 3250 results in an amount of an accrued benefit asset for the plan after a valuation allowance has been applied, if necessary, then by definition this amount equates to the expected future benefit that the sponsors can access in the plan and its portion would be eligible for asset recognition in the books of the joint sponsor.
- PS 3250 defines an accrued benefit asset as "the amount of any asset recognized on a government's statement of financial position in respect of employee retirement benefits before deducting any valuation allowance that may be required. It is the sum of the government's accumulated cash contributions less the sum of the current and prior years' benefit expenses (before any change in the valuation allowance)."
- Accrued benefit asset is adjusted for ~~any~~ net unamortized losses, if any, before testing for the valuation allowance to give the adjusted benefit asset. "Adjusted

benefit asset is an accrued benefit asset less the amount, if any, by which the aggregate of any unamortized actuarial losses exceeds the aggregate of any unamortized actuarial gains." This is because the net unamortized losses will ~~unwind~~ reduce the accrued benefit asset automatically over time based on the accounting model in PS 3250. No adjustment is made for net unamortized gains as these would only increase the accrued benefit asset. In the case of OTPP and OPSEUPP there are net unamortized gains, and so the accrued benefit asset equals the adjusted benefit asset.

- PS 3250 requires ~~that~~ the expected future benefit ~~is~~ to be compared to the adjusted benefit asset
- PS 3250 specifies how the expected future benefit is to be calculated:
  A government determines its expected future benefit as the sum of:

a) the present value of its expected future accruals for service for the current number of active employees, less the present value of required employee contributions and minimum contributions the government is required to make regardless of any surplus; and

b) the amount of the plan surplus that can be withdrawn in accordance with the existing plan and any applicable laws and regulations.

1) Impact of legally enforceable rights on calculation of expected future benefit amount

- PS 3250 uses the phrase "expected future benefits". This language indicates that future benefits only have to be expected, they do not have to be certain. Under the standard there are two ways that expected future benefits may be realized – through the withdrawal o~~f~~~~r~~ surplus or through using the surplus to ~~fund~~ pay for ~~the expense of~~ benefits earned by members in future periods – that is, paying lower contributions into the plan in the future, often referred to as a "contribution holiday".
- The panel did not put any emphasis on expected future benefits arising from withdrawal of plan ~~surplus~~assets, as the Provincial Government does not expect to benefit from surpluses through a withdrawal, and there is no explicit right for the sponsors to claim a withdrawal from the plans. In fact OPSEUPP explicitly states that the sponsors are not entitled to have any surplus paid out of the plan, and both OTPP and OPSEUPP plans state that upon wind up any surplus must be used to the benefit of members.
- PS 3250 paragraph 52 notes that the expected future benefits may be ~~impacted~~ affected if a government is not entitled to benefit fully from those expected future benefits or there are uncertainties as to the legal right to use a plan surplus. Such limitations might occur when there is an explicit restriction in the plan text that employers must always match the members' contributions, which might limit the

Commented [PO15]: Emphasize that this is the same language used in the definition of any asset.

government's ~~entitlement~~ ability to benefit fully from future reductions in contributions. However, in the OTPP there is no such restriction. The government's ~~match to members'~~ contribution~~s~~ required by the Teachers' Pension Act is limited to a maximum of the members' contributions. The current arrangement that the employers match a prior years' contribution level by members is by agreement of the joint sponsors and may be changed in the future as part of the negotiations to create an actuarially balanced funding valuation. Similarly, for OPSEUPP the plan text agreed to matching employer/member contributions, but this may also be changed through the exercise of shared control with the other joint sponsor. It should also be noted that contributions would be matched if both employer and employee contributions were reduced. This is clearly contemplated in the OTPP FMP as both are currently contributing in excess of the normal "run rate" for contributions.

- Ultimately, all the decisions regarding plan contributions and plan benefits rest~~s~~ with the joint sponsors and there are no legal uncertainties regarding the sponsors' rights, as joint sponsors, to determine contribution and benefit levels. It is clearly laid out in the legal and contractual arrangements of both OTPP and OPSEUPP.
- PS 3250 paragraph 59 requires a legally enforceable right to exist before an expected future benefit can be recognized for a withdrawal or surplus. The Panel believes that these requirements apply specifically to the expected future benefits of paragraph 56 (b) and not to the amounts calculated in accordance with 56 (a) amounts. Each sentence in paragraph 59, ~~excluding~~ other than the last sentence, ~~in paragraph 59~~ specifically refers to a withdrawal of assets from the plan. Legally speaking, and consistent with the plan text~~s~~ of OPSEUPP, a contribution holiday is not the same as a withdrawal of surplus - these are two separate concepts.
- The last sentence in paragraph 59 ~~does~~ refers to changes in the allocation of surplus. OTPP and OPSEUPP existing plan documents govern the allocation of surplus or provide the process on to how to agree the allocation of surplus on an equitable basis. In the case of OTPP, there is no ~~requirement~~ need to change~~s~~ the existing allocation of surplus or the existing rights within the contractual arrangement in order for the government joint sponsor to use ~~their~~ its existing rights under the shared control arrangement to negotiate an expected future benefit. In the case of OPSEUPP, the surplus is currently allocated to each joint sponsor the form of their respective stabilization reserve pools. A change to the plan documents would be needed to alter this arrangement and would affect the accounting when it became effective.

Panel View

- A joint sponsor does not have to have a unilateral legally enforceable right to reduce future contributions at the balance sheet date to have an expected future benefit under paragraph 56 (a).

2) Calculation of the present value of expected future accruals for service for the current number of active employees

- PS 3250 provides ~~further~~ guidance on how to calculate the present value of expected future accruals for service for the current number of active employees.
- Under this guidance, this amount is determined on a basis consistent with the accrued benefit obligation. The calculation is based on an open group~~-~~, which ~~is the idea~~assumes that the current number of employees will exist ~~for~~ in perpetuity. This is generally recognized in practice as being an appropriate assumption for the application of this test under PSAS, unless ~~there is an expected~~a significant change in the number of members is expected, for example because a plan is closed to new members or because of a planned restructuring. The panel is not aware of any such changes that are expected for either OTPP or OPSEUPP.
- The guidance notes that in addition to the expected future accrual for service, the expected administrative and investment expenses to be paid out of the plan can been included in the calculation, if they are not already taken into account in the expected return of assets rate.
- The Panel suggests that the Province might consider to what extent the expenses paid out of the plans could be ~~added to~~ included in the determination of the economic benefit.

3) What are the "minimum contributions the government is required to make regardless of any surplus"

Commented [LD16]: Note – this analysis does not mention the FMP and funding zones etc.
Panel to advise if this should be added in anywhere and if so, where?

- The objective of the test in paragraph 56 (a) is to determine whether a sponsor will be able to obtain expected future benefit from an existing surplus~~,~~ by reducing ~~their~~ its contributions below the expected cost of benefits for future services to be provided under the plan.
- The purpose of the minimum contributions test is to determine whether ~~there are~~ requirements exist that would make a sponsor continue to make contributions ~~cash~~ at a certain level, even when there are plan surpluses, and thus make it impossible for the sponsor to obtain a reduction in ~~cash~~ contributions to the plan.
- For a single sponsor plan, common practice in Canada under pension legislation is to consider that the sponsor can take a contribution holiday unless ~~they have~~it has made a commitment to match the contributions of the members regardless of

any surplus in the plan. The Panel concluded~~s~~ that~~, following the guidance in PS 3250 that the plan is accounted for as a whole using the Defined Benefit guidance and then the government picks up its portion of the plan, a similar logic should apply to JDBPs –~~ the joint sponsors can take a contribution holiday unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan.

- A question arises as to whether the surplus that is contemplated in the phrase "regardless of any surplus" is an accounting surplus or a funding surplus. The panel understands that in practice actuaries interpret this ~~in practice~~ to be funding surplus and not accounting surplus, and that if any contributions are required when there is a funding surplus these would be minimum contributions.
- There is also a question as to whether a joint sponsor can create a minimum contribution requirement on the other joint sponsor because shared control means that both sponsors must agree to any change in contribution levels.~~,~~ ~~t~~Therefore, absent any agreement, the existing contribution levels are "fixed" and cannot be changed. However this view would not be consistent with the notion that the valuation allowance is being applied to the plan as a whole, with the joint sponsors able to collectively control the contribution levels under the plan arrangements. Equal reduced contributions for both members and employers benefit both joint sponsors
- It is relevant to note that as OTPP always requires an actuarially balanced valuation allowance to be filed, there is no funding surplus that arises, as any preliminary funding surplus must be dealt with through the negotiation process. A funding surplus could arise prior to the filing of the next actuarially balanced funding valuation, as this must occur only once every three years. However, the joint sponsors can agree to file a funding valuation every year if they choose, to rebalance the contributions, reserves, and benefits of the plan. As the joint sponsors must agree on the contribution levels and make corresponding changes to the plan ~~text~~ if necessary, there are no "minimum contributions" that must be made, regardless of any surplus, as there is no minimum level of contributions that must be agreed upon by the joint sponsors. They can agree to any level of contributions as long as the result is~~n~~ actuarially balanced and so the level of surplus absolutely affects the contributions that are determined by this negotiation process. While it might be expected that some level of contributions will be made in the future to fund the benefits cost of future services, there is no method of determining under the contractual arrangements what this would be, given that the level is subject to negotiation~~ and must be negotiated~~. As such the "minimum contributions" cannot be determined.
- Similarly, for OPSEUPP the stabilization reserves act as limits on the amount of funding surplus that accrues~~d~~ in the plan. Whether these stabilization reserves

are used to reduce contributions or are maintained as a buffer against variability on contribution rates is at the discretion of the joint sponsor. This is very similar to the ability that a single sponsor has to reduce contributions or maintain a reserve as a buffer for future changes in actuarial assumptions.

- The Panel noted that a number of calculations regarding the expected future benefit for both OTPP and OPSEU were made, based on different assumptions regarding what were the minimum contributions required under each plan. For example, scenarios included minimum contributions as the agreed upon contribution until the next mandatory negotiations in three years; minimum contributions as the currently agreed upon contributions for a longer period; and minimum contributions ~~as~~ equal to the currently agreed upon contributions until certain ~~limited~~ limitations on contributions under the Income Tax Act would be expected to kick in. These various views exist because the standard does not currently provide clear guidance on how to apply the definition of "minimum contributions regardless of any surplus".

- If no expected future benefit to Gov't sponsor, then is also no expected future benefit to joint sponsor. Does this make sense? Is this consistent with public expectations and expectations of the other sponsor?

Panel view - Measurement

- Based on the analysis of the plan arrangements for OTPP and OPSEUPP, the level of minimum contributions required regardless of any surplus is lower than the present value of expected future accruals for service for the current number of active employees. This conclusion holds true for all scenarios identified above. All things being equal this creates headroom that could support the recognition of an amount in respect of the net pension asset of OTPP and OPSEUPP?.
- Recommendations to province – be mindful that if have a funding surplus and have a legal requirement to continue to contribute could be minimum contributions.

Recommendations to PSAB Employment Future Benefits Task Force

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Commented [PO17]: Other than one negotiated with the other sponsor? If the sponsors agree to increase the surplus, like OTPP, to create stabilization and adverse deviation reserves, are those minimum contributions that affect the calculation?

Commented [LD18]: These are currently in no particular order. Panel to advise as to ranking?

Application of guidance to Joint defined benefit plans

- The Panel notes that the standard is not clear on how the ability to access expected future benefits should be applied in the context of Joint Defined Benefit Plans. A clarification on how the guidance in PS 3250.81 should be applied (Interpretation A or Interpretation B) would be helpful.

Minimum contributions

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that funding valuations drive decision making over plan funding including contribution increases or reductions by sponsors. However, funding valuations may result in net pension assets or liability that are very different from the accounting net pension asset or liability. This results in a lack of clarity ~~over~~ about whether minimum contributions may be ~~made~~ required "regardless of any surplus" and whether a sponsor will be able to access an accounting surplus when the funding surplus is much smaller, or is a funding liability. There is some difficulty in determining what are minimum contributions in the context of joint DB plans when future contributions are dependent on the funded status of the plan and negotiation.
- For example, should the minimum contributions test be based on accounting surplus or funding surplus? Is it a present surplus or can it be a projected future surplus? Additional clarity on what constitutes a "minimum contribution" could increase consistency of application of this guidance for joint defined benefit plans [and single sponsor plans? yes].

Deferral accounting

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that the existing deferral provisions have the potential to result in an asset being recognized on financial statements when there is no underlying economic resource. Although this is not the case for either the OTPP or the OPSEUPP, this could occur when unamortized losses exist such that despite the the fair value of the plan assets being less than the estimated accrued benefit obligation, an accrued benefit asset could still be presented. This can be confusing to users of the financial statements as it is not transparent as to the underlying economic resource of the plan. Transparency is in the public interest. and transparency would suggest that it is important to recognize all liabilities or assets that exist and not to recognize assets where there is no underlying resource that gives rise to future economic benefit. Any mechanisms used to deal with potential income statement volatility concerns should ensure that these do not result in lack of transparency on the balance sheet. [Reference to IPSAS 39]

Discount rates

- The Panel supports PSAB examining discount rates for employment benefits. The Panel understand that in the public sector a sponsor borrowing rate is often used for unfunded plans and an asset return rate is used for funded plans. An appropriate asset return rate will vary depending on how assets are invested. The discount rates used by public sector entities ~~may~~ is also likely to be different th~~e~~an the discount rates used in the Plan's own financial statements prepared under Part IV of the CPA Canada Handbook – Accounting, resulting in significantly different measurements of accrued benefit obligations for the same plan in different financial statements. This inconsistency ~~could be~~is confusing to users.

  The Panel observes that many more recent accounting pronouncements relating to liability measurement require that the discount rate used to measure the liability capture the risks inherent in that liability. The panel suggests that the Employment Benefit Task Force consider whether the method intended to be used to settle an obligation should affect how that obligation is measured and how the risks inherent in the obligation are best captured either in the discount rate or in other aspects of the measurement of the obligation.

Funding valuation

- As a funding valuation may result in a funding surplus or deficit that is very different ~~than~~ from the accounting surplus or deficit this may be confusing to some users where both measures are presented in the same document.
- The Panel believes it may be beneficial to include additional discussion in a revised standard or other material about how the objectives and assumptions in funding valuations may differ from those used in the accounting valuation and why.
- The Panel suggests that a disclosure highlighting the quantitative differences in the funding valuation compared to the accounting valuation should be made in the financial statements of pension plans and/or in the financial statements of sponsors when information on the funding valuation of a plan is also made public or available to the same users of the financial statements. This would be

Commented [LD19]: Is this going to far?
Otherwise, have to think about how we highlight that this recommendation is to AcSB and not PSAB/Task force.

useful to users as it would provide additional context for both the accounting and funding valuations.

APPENDIX A – PENSION PLAN GOVERNING ARRANGEMENTS

OTPP

- The *Teachers' Pension Act*, R.S.O. 1990, c.T.1 (Link to the Teachers' Pension Act);
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The plan text for OTPP;
- An agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Minister of Education and Training and The Ontario Teachers' Federation represented by its Executive, dated July 15, 1991, as amended (The Partners' Agreement);
- A Funding Management Policy, attached as Appendix A to the Partners' Agreement (FMP).

OPSEU

- The Ontario Public Service Employees' Union Pension Act, 1994 S.O. 1994, c 17, s.143 Sched (Link to the Ontario Public Service Employees' Union Pension Act)
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The sponsorship agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Chair of the Management Board of Cabinet and the Ontario Public Service Employees' Union, dated April 18, 1994, as amended (The Sponsorship Agreement);
- The Agreement and Declaration of Trust of OPSEU Pension Plan Trust Fund, dated October 25, 1994, as amended (The Trust Agreement);
- The plan text for OPSEUPP;
- OP Trust Funding policy.

Appendix B - Accounting references

IPSASB 39. 67. A net defined benefit asset may arise where a defined benefit plan has been overfunded or where actuarial gains have arisen. An entity recognizes a net defined benefit asset in such cases because:

(a) The entity controls a resource, which is the ability to use the surplus to generate future benefits;

(b) That control is a result of past events (contributions paid by the entity and service rendered by the employee); and

(c) Future economic benefits are available to the entity in the form of a reduction in future contributions or a cash refund, either directly to the entity or indirectly to another plan in deficit. The asset ceiling is the present value of those future benefits

Commented [LD20]: Current parking lot – to be completed and refined .

Appendix C

- Compare to BC and NB plans. Key differences here is that documents, including the contribution rates, can change if agreed upon by joint sponsors.

Commented [NT21]: o/s need to understand why the AG referred to these – is there a concern that we need to address that we have not yet.

3 - Email - December 17 2016 - PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v3 MG.pdf

From:	Murray Gold
To:	Patricia O"Malley (plomalley@outlook.com); Uros Karadzic (uros.karadzic@ca.ey.com); Martin, Paul (FIN) (Paul.Martin@gnb.ca)
Cc:	lucy.durocher@ca.pwc.com; Tam, Nelson (TBS)
Subject:	PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v3 MG
Date:	December-17-16 6:27:18 PM
Attachments:	logo_d1ac01ba-f783-4248-82df-84549cb6f0b7.png PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v3 MG.docx

All,

Here are my comments on Lucy's excellent draft. I may have gotten a bit carried away in the descriptions of the underlying arrangements – please feel free to cut those additions down. A added a number of section references, as these may be useful to you in reviewing the draft and the documents. Depending on our final format, these can be deleted or changed into footnotes.

Best of the season,

Murray

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PENSION ASSET EXPERT ADVISORY PANEL

[DRAFT] REPORT (MG Comments Dec 17, 2016)

[NTD - o/s Cover letter? (including mandate summary)

Executive Summary]

Mandate of the Panel

- Pension Asset Expert Advisory Panel (the Panel) was formed to address
  - The requirement regarding control with respect to recognizing a pension asset for a joint defined benefit plan
  - The requirement regarding control with respect to recognizing a pension asset for other pension plans
  - Appropriate valuation techniques to measure a pension asset that take into consideration future decision making authority by plan sponsors
  - Recommendations to the Employee Future Benefits Task Force of the Public Sector Accounting Board regarding issues that should be considered in its review of the retirement and post-employment benefits standards.
- Looked at recognition and measurement of pension assets arising in certain jointly sponsored pension plans (specifically, the Ontario Teachers' Pension Plan (OTPP) and the Ontario Public Service Employees' Union Pension Plan (OPSEUPP), collectively the "Plans") in accordance with Canadian public sector accounting standards (PSAS).
- The recognition and measurement of pension assets arising in other plans, such as the Healthcare of Ontario Pension Plan (HOOPP) and the Colleges of Applied Arts and Technology Pension Plan (CAATPP) will be covered in a later supplemental report that considers the different attributes of these plans

Nature of the pension plans examined

- Pension plans are not all alike. Each pension plan has distinct contractual and other arrangements that must be considered in assessing the accounting for that plan.
- The relevant ~~legislative acts~~legislation and contractual arrangements governing the Plans that were considered by the Panel are listed in Appendix A.
- ~~While the~~The Provincial Government ~~has the legislative ability to change the relevant Acts, it~~ has ~~also~~ entered into contractual arrangements with the employee sponsor(s) of the Plans that govern the relationship between the Plan sponsors, including with regard to plan surpluses and deficiencies. For accounting purposes the existing contractual agreements are past transactions and are used for assessing existing rights and powers under the arrangements. Changes to the contractual arrangements (or whether a government's has the ability to set aside a contract using sovereign power) are not considered unless, or until, any such changes ~~were to~~ become effective.
- Under pension legislation (in Ontario, the Ontario Pension Benefits Act), there are several categories of defined benefit plans. Jointly sponsored pension plans are a separate category from single sponsor plans or multi-employer plans and have different regulatory requirements.
- Similarly, under PSAS there are several categories of defined benefit plans, which include joint defined benefit pension plans (JDBPs) as a separate category from single sponsor or multi-employer plans.
- In JDBP~~'~~s a government sponsor share~~s~~ the risks ~~and rewards~~ of a defined benefit plan with plan participants, represented by a sponsor or sponsors. The key characteristic of a JDBP is that there is a formal agreement between the sponsors which establishes~~d~~ that the sponsors have shared control over the plan. By definition, neither sponsor has unilateral control over the plan, as joint control (shared decision making) is an ~~inherent~~ essential requirement for a JDBP.
- Other characteristics of JDBPs include:
  - Funding contributions are shared mutually between the government and plan members
  - The sponsors have shared control over decisions related to ~~the administration of the plan and~~ the level of benefits and contributions on an ongoing basis based on the terms of the contractual agreement as well as arrangements for the administration of the plan
  - The sponsors share, on an equitable basis, the significant risks, both positive and negative, associated with the benefit plan.

Commented [MG1]: Do we need this sentence? There is litigation over the government's ability to unilaterally legislate changes to a pension arrangement, and I would prefer to avoid the issue if we can.

- Historically, OTPP was a single employer sponsored plan until 1992 when it was converted to be a jointly sponsored pension plan (PBA) and became a joint defined benefit plan for accounting purposes. OPSEUPP was carved out of the Public Service Pension Plan (a single sponsor plan) in 1995 and established as a jointly sponsored pension plan (PBA) and a joint defined benefit plan for accounting purposes.
- The motivation for making these changes was ~~so~~ for the Provincial Government ~~could~~ to transfer a share of the risks of the obligation to the members of the plans. In return for taking on a share of the risk of the obligation, the members received an equitable share of any surplus in the plan (both the upside and downside of plan performance are equitably shared) and the member Sponsors received the right to participate in shared control of the plan, meaning ~~both~~ that the arrangement contemplates ongoing discussions between the sponsoring parties ~~to agree to significant~~and joint decision-making about issues ~~plan~~ decisions such as plan structure, benefits available under the plan, contribution rates, funding levels and other policy decisions.
- As both the funding risk and rewards and the governance of the plan are shared between the employer sponsor(s) and the employee sponsor(s) the move from a single sponsored plan to a jointly sponsored plan was considered by all parties to be a fair and equitable ~~deal~~ arrangement for both sides while achieving a public policy aim o~~fr~~ reducing the risk of the obligation to the Provincial Government.

Commented [LD2]: This was the language in my notes, but perhaps there is a better way of phrasing this? "an equitable economic arrangement"?

- The fundamental difference between single sponsor defined benefit plans and joint sponsor defined benefit plans is that the control that a single sponsor would have over setting contribution rates and benefits has been replaced with joint control over those decisions. The sharing of the risks ~~and rewards~~ of the pension plan on an equitable basis is consistent with the sharing of control over those policies that influence the outcomes of the pension plan.

OTPP – Structure and organization

Sponsors

- The OTPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Minister of Education and Training) as the employer Sponsor and the Ontario Teachers' Federation (represented by its Executive) as the employee Sponsor. The ~~partnership~~ Partners' A~~a~~greement between the joint sponsors sets out how shared control is achieved and governs all aspects of the plan.
- Other employers also~~are part of~~participate in the plan, ~~meaning~~ such that the OTPP is also a multi-employer plan, but these employers are not sponsors.

Decision making

- The OTPP Board is appointed by the joint sponsors and is responsible for the administration of the pension plan and investment of the pension fund. It develops and implements an investment strategy,~~, such as investment of assets, payment of~~pays pension ~~–~~benefits, ~~preparation~~ authorizes the preparation of ~~pension~~ actuarial valuations and generally managesing the pension plan and fund.
- The Board does not make any fundamental decisions regarding benefits and contributions as these decisions rest with the joint sponsors' Partners Committee, to which an equal number of representatives are appointed by each sponsor.

Funding arrangements

- ~~The~~ A basic funding ~~arrangement~~ provision, set out in the Teachers' Pension Act, is that the employers' contributions ~~shall~~ must not exceed those ~~of~~ made by the members in the year before the preceding year.
- Historically, the Employers have matched the members' contributions, based on the members' contributions in the year before the ~~a~~ previous year. This has resulted~~s~~ in contributions being made typically on a 50:50 basis between employers and members (except where specifically agreed otherwise).
- A limited exception to the matching contribution provisions also reflects the sharing principle underlying the OTPP. In the event that conditional indexation benefits are not paid by the OTPP in a year, the amount of this benefit reduction is matched by a corresponding contribution from OTPP employers.
- The contractual arrangements require ~~that~~ an actuarial valuation for funding purposes ~~is~~ to be prepared at least once every three years to comply with the *Pension Benefits Act*. This actuarial valuation is required to be "actuarially balanced" – meaning that the benefits and costs to be paid from the fund plus any contingency reserve must equal~~s~~ the present value of the members' and employers' contributions and special payments. Procedurally, the tri-ennial valuation process commences with a~~A~~ preliminary valuation ~~is~~ prepared by the Board's actuary based on the existing terms of the plan. ~~but t~~To the extent that this preliminary valuation is not actuarially balanced, the joint sponsors must negotiate and agree what changes to the plan must be made in order to reach an actuarially balanced valuation that will subsequently be filed. This process means there is no funding surplus or deficit in the final funding valuation.
- The changes to the plan agreed upon by the joint sponsors could be to increase or decrease contributions for employers and/or members or to improve benefits payable to members. Money may also be left in an actuarial reserve. Negotiations must be ~~made~~ carried on in good faith and if an agreement is not

Commented [LD3]: Note, it is actually the "year before the preceeding year" to two years previous. Did not think it necessary to get into this detail, but it is why it says "a" previous year not "the" previous year.

reached within a certain time frame a mediator may be appointed by the joint sponsors, and, if necessary a board of arbitration.

- The joint sponsors have agreed to a Funding Management Policy (FMP) which~~,~~ ~~although not binding,~~ sets a framework for the sponsors to negotiate the use of any funding surpluses or the funding of deficits. The FMP, in combination with the *Income Tax Act (Canada)*, ~~clearly indicates~~requires that once the OTPP meets certain funding thresholds, ~~above a certain~~ funding? ~~range~~ the ~~sponsors~~ Partners ~~can~~ must? negotiate either to lower contributions or provide temporary or permanent benefit enhancements (or some combination of the two).
- The OTPP plan text does not limit the outcomes of the negotiation between the joint sponsors. There is no minimum level or fixed range of contributions by members or employers that cannot be changed through the required negotiations.

OPSEUPP – Structure and organization

Sponsors

- The OPSEUPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Chair of the M~~m~~anagement Board of Cabinet) as the employer Sponsor and the Ontario Public Service Employees' Union as the employee Sponsor.
- The joint sponsors established a trust (OP Trust) and the declaration of trust between the joint sponsors and the trustees of OP Trust sets out how shared control is achieved and governs all aspects of the plan.
- ~~Other employers are part of the plan, meaning the OPSEUPP is also a multi-employer plan, but these employers are not sponsors.~~

Decision making

- The ~~Trustee~~ Board of Trustees administers the plan and an equal number of trustees are appointed by each of the Provincial Government and OPSEU.
- The ~~Trustee~~ Board of Trustees ~~votes on~~makes decisions ~~resolutions~~ by majority vote. This means that at least one T~~t~~rustees representing ~~both~~ each of the Provincial Government and OPSEU must agree to a resolution in order for it to be adopted. In the case of a deadlock there are agreed upon procedures to ~~determine~~ appoint a temporary 11th trustee, as agreed by both the sponsors (or, if necessary, appointed by~~?~~ the Chief Justice of Ontario).

Commented [MG4]: I think the FMP is binding on the Partners, but is not binding on the Board as the board is not a party to the FMP. The FMP is, technically, part of the Partners' Agreement.

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Commented [LD5]: Confirm this is correct. Sponsor agreement states it is a single employer plan, but other parts of the plan text indicates that it is multi employer with crown corps etc.

Commented [MG6]: OPTrust is deemed not to be a multi-employer plan notwithstanding certain characteristics that might suggest otherwise.

Commented [LD7]: I'm not clear on whether this is an administrative Board or a representative Board – please advise.

Commented [PO8]: I thought that if none of the pre-authorized third trustees was available, the decision maker was to **be** the Chief Justice.

Commented [MG9]: The Chief Justice is responsible for selecting an 11th Trustee but is not the 11th Trustee. See 7.02 of Trust Agreement.

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- The ~~trustees~~ Board of Trustees is ~~are~~ responsible for the administration of the OPSEUPP and the investment of the OPSEU Pension Fund. It develops and implements an investment strategy, pays pension benefits, authorizes the preparation of actuarial valuations and generally manages the pension plan and fund. ~~including the investment of assets, payments of benefits, receipt of contributions, preparation and filing of actuarial valuations in accordance with the Pension Benefits Act~~
- The Board of T~~t~~rustees ~~have~~ has no power to amend the plan or the trust agreement. All decisions regarding contribution levels and benefits to be provided under the plan are the responsibility of the sponsors, except where the PBA's minimum funding rules impose additional contributions or special payments.
- Amendments to the trust agreement, plan text and sponsorship agreement require unanimous written consent of the sponsors.

Funding arrangements

Commented [LD10]: Panel to confirm this is an appropriate summary

- The basic ~~funding~~ contribution requirement ~~arrangement in~~under the OPSEUPP text is that employers match the contributions of the members, subject to a two month lag (s.4.6 of OPTrust Plan Text).
- The Board of Trustees, and the Plan actuary, are responsible for the Plan's actuarial valuations and the actuarial assumptions used in those valuations. While valuations must be filed with the pension regulator every three years under the PBA, the Board of Trustees may elect to file a valuation more frequently s1.3 of OPTrust Funding Policy).
- In the event that a funding valuation discloses net actuarial gains after non-defrayed obligations have been met, those net actuarial gains are equally divided between an Employer 'Rate Stabilization Fund' (RSF) and a Member RSF (s.56(c) and s.57 of OPTrust Sponsorship Agreement). Through collective bargaining, an allocation of funding surpluses on a basis that is different from 50/50 may be agreed. The Province may retain its RSF as a reserve or use the Employer RSF to reduce its special payments or its normal costs and OPSEU may retain its RSF as a reserve or utilize its RSF in its discretion, subject only to the provisions of the PBA and the *Income Tax Act (Canada)*. The OPTrust Board of Trustees has no authority with respect to the use or application of either RSF, but has recommended to OPTrust's sponsors that each RSF not exceed 12.5% of net actuarial liabilities (5.2 of OPTrust Funding Policy). There are no restrictions on how each party bargains the use of their surplus. There is no minimum level or fixed range of contributions by members or employers that cannot be changed by agreement of the joint sponsors or through the use of their respective surplus portions.

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- In the event of a funding deficiency, member and employer contributions are increased equally to fund the deficiency (s.58 of OPTrust Sponsorship Agreement). The only exception is in the event that the Province or OPSEU has an RSF and chooses to apply it to offset its share of a funding deficiency.
- ~~Funding zone agreements~~
- In principle, with a sufficient RSF, either OPSEU or the Province could reduce their contributions to zero. ~~Limits (or lack thereof) on negotiation of contributions set by plan text~~
- The plan text (s.6.4) clearly states that no amount of surplus shall be paid out of the plan to the Provincial Government or any participating employer. Contribution holidays, however, are not treated as a surplus withdrawal, and are clearly permissible under the OPTrust Sponsorship Agreement and Plan Text. ~~However, it is also clearly stated that contribution reductions are not considered to be a pay out of surplus.~~
- ~~Any net actuarial gains that arise (after funding certain specific transitional liabilities which have now been satisfied?) are to be used equally for the benefit of the sponsors (employers and OPSEU). Specifically, 50% of the gain may be collectively bargained? and used to the benefit of the employers, and 50% of the gain may be collectively bargained and used for the benefit of plan members. There are no restrictions on how each party bargains the use of their surplus. There is no minimum level or fixed range of contributions by members or employers that cannot be changed by agreement of the joint sponsors or through the use of their respective surplus portions.~~

Commented [MG11]: OPTrust does not have funding zones in the OTPP sense – zones that are defined by the circumstances of the plan vis-à-vis run rates, with different discount rates and different permissible uses of surplus.

Commented [LD12]: Check wording against plan text – o/s to find reference.

Commented [MG13]: Yes, they have been satisfied.

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Panel view

Both OTPP and OPSEUPP have been accounted for as joint defined benefit plans in the Public Accounts of Ontario accordance with PS 3250 since that standard was issued in 2001. The Auditor General also agrees with this classification of both plans.

The panel agrees with the accounting classification of both plans as joint defined benefit plans.

Determination of relevant accounting guidance

- The accounting analysis is performed ~~under~~ in accordance with Public Sector Accounting Principles (PSAS) as issued by the Canadian Public Sector Accounting Board.

- PSAS ~~provides~~ identifies sources of guidance in determining appropriate accounting principles in PS 1150. First must follow any specific standard that relates to the issue under consideration (apply every source of primary GAAP). In this case, PS 3250, *Retirement benefits* is a standard that ~~relates to~~ specifically addresses the accounting for defined benefit pension plans. Further, PS 3250 also defines and contains specific guidance ~~specifically~~ on accounting for joint defined benefit plans.
- If a primary GAAP source, such as PS 3250, is not clear, the government would develop an accounting policy considering other standards within PSAS and Section 1000, *Financial Statement Concepts*.
- A government may also refer to accounting guidance in other GAAP frameworks as long as those frameworks are consistent with PSAS standards and Section 1000 above.

Panel View

- The Panel considered the guidance in PS 3250.
- In addition, the panel noted that there were some areas where PS 3250 is not clear with respect to how the guidance in PS 3250 applies to JDBPs. In these cases the panel referred to relevant other guidance, as identified in the analysis below.

Commented [PO14]: The uncertainty regarding the ceiling test both w.r.t. "minimum contributions regardless of surplus" and the period for which contributions are fixed I think arises for all plans not just JDBPs?

Recognition issues

1) Application of Defined Benefit accounting to Joint Defined Benefit Plans

- PS 3250 Paragraph 81states "When a government participates in a joint defined benefit plan, the government's risk is limited to its portion of the plan. The government should account for its portion of the plan in accordance with the standards for defined benefit plans".
- The panel discussed two possible interpretations of how this guidance is to be applied to JDBPs:
  - Interpretation A) Divide the plan between the sponsors' respective portions, and the government applies the guidance on Defined Benefit plans in PS 3250 only to ~~their~~ its portion;
  - Interpretation B) The government applies ~~-~~the Defined Benefit guidance in PS 3250 to the plan as a whole ~~using~~ and then recognizes only its portion of the plan in its financial statements

- The interpretation of this paragraph affects the perspective through which the asset recognition guidance in PSAS and the guidance on defined benefit plans in PS 3250 is applied (to the plan or the government's portion of the plan).
- For example, under interpretation A, dividing the plan first would entail measuring plan assets at the government's share, determining the accrued benefit obligation at the government's share and then applying the valuation allowance to any net accrued benefit asset that arises.
- Under interpretation B, the assets and accrued benefit obligation amounts for the whole plan are measured in accordance with PS 3250. The valuation allowance guidance is applied to any accrued benefit asset that arises on the plan as a whole. The government then calculates its portion of the accrued benefit asset, net of any valuation allowance in determining the amount of asset to recognize in the Public Accounts.

- Interpretation B is, in the view of the Panel, a more appropriate answer because it aligns most closely with the concepts of Defined Benefit accounting in PS 3250 and with the economic substance of joint defined benefit plan arrangements.
    - Defined Benefit plan accounting in Financial Statements for all plans is based on a *net* amount of plan assets less accrued benefit obligations. Rather than presenting plan assets as "Assets" of the government and plan liabilities as "Liabilities" of the government these are presented as a net asset or liability, which reflects that the plan is a separate entity. This accounting is more similar to an "equity method" of accounting which reflects the sponsor's interest in the net assets (or net liability) of a plan than to a proportionate consolidation accounting. Therefore it similarly is appropriate to calculate the net assets (or liabilities) in the plan in accordance with accounting standards before determining the sponsor's portion of the plan.
    - The fundamental difference between a single sponsor plan and a joint defined benefit plan is in the latter control is shared and a sponsor has only a portion of the positive or negative risks ~~and rewards~~. It would be consistent to calculate the plan net asset or net liability in the same manner as for single sponsor plan – on a whole plan basis – before accounting for the shared control distinction by determining what is the government's portion that net asset or net liability.
    - The contractual arrangements between the Sponsors affect the plan as a whole because there is joint control over the plan as a whole and not unilateral control by each sponsor over ~~their~~ its portion of the plan. For example, there is one funding policy, one Partners' agreement (OTPP) or

Commented [PO15]: This is the key point and should therefore be moved earlier.

sponsorship agreement (OPSEUPP), one plan text and so on that govern the respective plans. A determination of the assets and the liabilities can only be made with reference to the plan as a whole. Therefore it also follows that other aspects of the guidance for accounting for defined benefit plans, such as the valuation allowance guidance, should be applied to the plan as a whole prior to determining a ~~government's~~ sponsor's portion. This may be particularly important when the portion is determined on an equitable basis, but not necessarily an equal (50:50) basis

- An important characteristic of JDBPs is that there is an equitable sharing of the plan which applies to both risks and rewards and is the underlying ~~business~~ economic rationale for a JDBP. It would not be an equitable sharing for a sponsor to have only an obligation for a net liability without any access to a net asset position. One of the implications of Interpretation A is that the sponsors might recognize a liability for their portion of a net liability but be unable to recognize an asset for their portion of a net asset. In the view of the Panel would not faithfully represent the underlying risks and rewards of the arrangement.
- The Panel believes that if the PSAB had intended joint defined benefit plans to apply the valuation allowance guidance for defined benefit plan accounting only to a portion of the plan they would have provided additional guidance as to how this should be performed.

Commented [PO16]: More importantly, the standard says "follow the DB guidance and then account for your potion".

Application to OTPP and OPSEPP

- The OTPP plan states that the risks [and rewards] are shared between employers and members on an equitable basis, which has historically been ~~on a~~ 50:50 when considered over the long term.
- The OPSEUPP plan indicates that any actuarial gains are allocated ~~to~~ between the employers and members on a 50:50 basis. Each sponsor can ~~and~~ then ~~this portion may be utilized by that party as they determine over time~~utilize its portion as it unilaterally determines. This means that members and employers could utilize their gains at different times, as historically has been the case. This means that the portion of any net asset that relates to the government's share may fluctuate as a percentage of the total net asset balance and may not result in the government having a 50% portion of the net asset at any one time.

Panel View

The Panel believes it is appropriate to apply all aspects of the guidance for accounting for defined benefit plans in PS 3250 to a JDBP prior to determining the government's portion of that plan for recognition ~~within~~ in the financial statements.

2) Definition of an asset – Is there an economic resource

- Under PSAS ~~an~~ assets are defined as "economic resources controlled by a government as a result of past transactions or events and from which future economic benefits are expected to be obtained".
- The resource in question is the accounting accrued benefit asset that arises from applying the accounting guidance in measuring plan assets and the accrued benefit obligation, including the provisions regarding the deferral of unamortized gains or losses. The accrued benefit asset may be very different from any ~~funding~~ surplus calculated under an actuarial valuation performed for funding purposes. Funding valuations may use different actuarial methods and assumptions, such as a provision for adverse deviations. However, under accounting standards ~~it~~ any surplus represents the best estimate of the accrued benefit obligation and the fair value of the plan assets, as adjusted for the permitted deferral provisions. Notwithstanding there is a degree of measurement uncertainty regarding both the measurement of the plan assets and the accrued benefit obligation, PS 3250 – the primary source of GAAP for retirement benefit plans – clearly requires ~~that~~ such an asset ~~is~~ to be recognized for a single sponsored plan~~s~~. Consistent with the discussion in 1) above, for JDBP plans these requirements are still applicable and this asset should be considered in the context of the plan as a whole, prior to determining what portion of the asset (if any) is the government's share. That is, there is no requirement for the amount of any asset to be precisely determinable under 3250 or any other standard.

- The ~~recognition of an~~ accrued benefit asset recognized for accounting purposes is then subject to the measurement provisions of the valuation allowance guidance (See section on "Measurement" below).

- In addition to the requirement of PS 3250 to recognize an accrued benefit asset, the Panel also noted the following guidance indicates that an accrued benefit asset in a JDBP represents an economic resource that gives rise to future economic benefits:
    - PSAS provides additional guidance on economic resources and future economic benefits in PS 3210, *Assets,* which is effective from April 1,

2017. An economic resource embodies value because it enables an entity to meet its objectives, such as the provision of public goods and services, redistribution of wealth, generation of cash inflows or reduction of cash outflows. An accrued benefit asset in a pension plan is a resource because it can be used to generate future benefits. This view is confirmed by guidance in IPSAS~~B~~ 39.67

- The economic resource (plan surplus for accounting purposes) can provide future economic benefits to the joint sponsors in the form of a reduction of cash outflows in the future because it can be used to reduce future contributions, as long as the sponsors are expected to be able to access those future contribution reductions (3210.04(a)). This view is confirmed by guidance in IPSAS~~B~~ 39.67

- In a joint defined benefit plan, the sponsors form a control group. When looking at whether the sponsors can access future contribution reductions or a withdrawal of surplus in meeting the asset definition for the plan as a whole the rights of the sponsors collectively should be considered.
- There is considerable case law in Canada addressing single sponsor plans and the ability of that sponsor to either withdraw surplus from the plan or take contribution holidays. Critical to assessing the ability of the sponsor to withdraw surplus or take contribution holidays ~~is~~ are the plan trust agreement and plan text; clear rights within the plan ~~text~~ documents can support the sponsor's right to withdraw surplus or take contribution holidays. However, the law treats surplus withdrawals on a very different basis from contribution holidays.
- Surplus withdrawals are highly regulated by the PBA, and are regulated differently depending upon whether a surplus withdrawal is being considered from a continuing plan or on plan wind-up. A threshold question in any case of withdrawal is legal entitlement or 'ownership' of surplus, and it is often the case that entitlement is not clear, and that neither the employer nor the plan members have an incontrovertible claim to a plan surplus. In Ontario, all surplus withdrawals are subject to the review and consent of the Superintendent of Financial Services. In addition, either legal entitlement to the surplus must be established or there must be an agreement between the employer, active members and retired members about the surplus withdrawal. Arbitratoin procedures may also be utilized in some juriusdictions to determine an allocation of surplus. ~~when the plan text is not clear, there may be legal uncertainties as to whether the sponsor "owns" the surplus. Withdrawal of surplus by the sponsor is generally subject to regulatory and legal hurdles, such as either approval by the Financial Services Commission of Ontario approval with a court order an arbitration award or an agreement between employer and members for any surplus withdrawal~~?~~. Therefore under~~Under applicable case law and the PBA, it

Commented [LD17]: We discuss this access in detail a bit later on.
To consider flow and placement of support some more when drafting final report.
This thought is not quite well enough supported here.

Commented [LD18]: To Panel: In fleshing out the first section, I felt that these items did not fit well in the "nature of pension plans" section, so suggest moving them here as they relate to the recognition issues. However, would like feedback on whether this revised flow works or these should be moved back.

Commented [LD19]: Question for Murray – is this in the right place?
This sentence was in the bulleted draft, however, not clear whether this relates only to legal uncertainties over the surplus (i.e. withdrawal) or is a more general comment covering contribution holidays. If the latter then it should be moved somewhere else.

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is generally considered that a sponsor does not have a legal right to withdraw a surplus until these hurdles have been passed., ~~unless there is a clear right in the plan text.~~

Commented [PO20]: True? I thought that contributions to the plan became trusteed assets and all withdrawals required approval.

- Conversely, the PBA expressly permits contribution holidays without any requirement for Superintendent review or approval. Although certain plan provisions have been found to prohibit contribution holidays, this is the exception rather than the rule and contribution holidays are commonly taken by Canadian defined benefit plans. In general, ~~if the plan text~~ a plan text need not expressly permit a contribution holiday in order for a plan sponsor to reduce its contribution on account of a funding surplus. It is generally the case that the plan actuary may take surplus into account in determining the required level of employer contributions; the plan actuary is only prohibited from doing so where express plan provisions require employer contributions regardless of any plan surplus. ~~is not clear on the right of a sponsor to be able to reduce contributions, generally Canadian case law would support that the sponsor has the right and ability to utilize surplus through contribution holidays.~~
- An analysis of the plan documents for OTPP and OPSEU indicate that in both plans the sponsors negotiate and agree on contribution rates. This means that collectively the sponsors can exercise their shared control to reduce future contributions to the plan and access their portion of the economic resource in the form of future economic benefits. In the case of OTPP the government can benefit from the economic resource through the negotiation process over contributions required to make the actuarial valuation actuarially balanced. Similarly the government can benefit from any OPSEUPP asset through their ability to ~~bargain~~ utilize their allocated 50% of any actuarial ~~gains~~surplus to reduce contributions.

- PS 3320 applies to contingent assets which are defined as "possible assets arising from existing conditions or situations involving uncertainty. That uncertainty will ultimately be resolved when one or more future events not wholly within the public sector entity's control occurs or fails to occur. Resolution of the uncertainty will confirm the existence or non-existence of an asset". ~~The implication of a~~A contingent asset is ~~that it is~~ not recognized in financial statements because there is uncertainty as to whether an asset exists. An accrued benefit asset is not an uncertain economic resource. While there is ~~measurement~~ uncertainty regarding the measurement of an accrued benefit asset due to the necessity of making ~~a number of~~ actuarial assumptions regarding demographic and financial ~~actuarial assumptions~~factors as well as fair values of plan assets, there is no uncertainty as to whether the plan exists, and therefore over the underlying existence of any estimated accrued benefit asset as an economic resource. PS 3320 notes that “The mere fact that an estimate of an amount is involved (measurement uncertainty) does not, in and of itself, constitute the type of uncertainty that characterizes a contingent asset”. The extent of the economic resource becomes clear as measurement uncertainty is resolved not as future events occur or fail to occur. As such, PS 3320 is not a relevant source of guidance in considering whether an asset exists in respect of an accrued benefit asset.

Commented [MG21]: future events may increase or diminish the value of asset, but this, I expect, is irrelevant to the question of whether the asset exists and its value at a point in time.

Panel view

The accounting asset meets the definition of an economic resource because the accrued benefit asset exists and future benefit is available to the sponsors in accordance with the plan documents. There is no existence uncertainty regarding the net pension asset.

3) Definition of an asset - Control

- The definition of an asset under PSAS requires ~~that~~ an economic resource ~~is~~ to be controlled by a Government. PS 3210.16 ~~expands on~~discusses the application of this control requirement noting that control exists when a government can benefit from economic resource, when they can deny or regulate access to the resource, and when they are exposed to risks associated with the economic resource.
- An accrued benefit asset in a joint defined benefit plan ~~still~~ meets the asset definition from the perspective of a joint sponsor as the joint sponsor is exposed to risks associated with the resource as they are exposed to risk of plan surplus changing from a ~~change~~ variation in actuarial assumptions. ~~The government~~Each sponsor may also regulate access to the resource because joint control means that ~~they~~ each must agree to any changes to the plan text or contractual arrangement and as such can deny the other sponsor access to the resource to the extent that joint decisions must be made over the use of the asset.
- As noted above in the case of OTPP and OPSEU the government can benefit from the economic resource.
- Shared control means that ~~there is control, but that~~ control over the plan as a whole is exercised through the joint sponsors as a control group. The contractual arrangements for OTPP and OPSEUPP set out how that joint control is exercised, including how surpluses and deficits are dealt with. In the context of PS 3250, the defined benefit guidance is to be applied to each plan, and then the members of control group each pick up their share. This shared control relationship contrasts with participating employers that are not part of the control

Commented [MG22]: true for OTPP, but joint agreement not necessary for OPSEUPP group, as those employers ~~do~~ are not able to regulate or deny access to the plan assets and therefore cannot control access to the economic resource of a net plan asset.

- By definition, a joint sponsor of a JDBP ~~does~~ cannot have unilateral control or unilateral rights to the surplus of a JDBP. Instead there is an agreed upon, pre-determined process.~~,~~ ~~with~~ That process provides certainty that a conclusion on the use of any surplus will be reached ~~and~~ with the expectation that the outcome of the process will be an equitable sharing of any surplus, as equitable sharing is a key characteristic of a JDBP.
- There are other examples in PSAS where joint control results in asset recognition. PS 3060 requires asset recognition for government ~~business~~ partnerships subject to shared control using the modified equity method. Similarly, PS 3060 requires proportionate consolidation for other government partnerships, which results in a government recognizing a proportionate share of the capital assets held under joint control, for example, even though the government cannot control the use of that asset unilaterally. If a jointly controlled asset cannot meet the recognition criteria for an asset then it would logically follow that no investments in government partnerships could be recognized. As it is, such assets are recognized by governments applying PSAS in their public accounts. The ~~same~~ logic that shared control can ~~still~~ result in asset recognition should apply to a pension asset of a JDBP.
- PS 3250 does require ~~that there is~~ an existing legally enforceable right to recognize an asset based on the withdrawal of a surplus. This ~~does not mean that there has to be~~ is quite different from a legally enforceable right to reduce contributions to the plan in the future. ~~in order to have control of the economic resource.~~ Under pension law, withdrawal of pension surplus ~~have~~ has different legal characteristics from contribution holidays. The former is typically legally uncertain and is regulated by the PBA. Surplus withdrawals require regulatory consent and either a Court order confirming surplus entitlement or a negotiated agreement with employees and retirees. ~~requires that assets already paid into a trust and for which no claim is clearly retained in the plan document, is reclaimed~~?. The latter, which is also a form of economic benefit, is permitted under the PBA and rarely limited by plan documents. It requires that assets are not paid into a trust in the future and that the existing claim on those assets is not given up by the sponsor.? This is a distinction established in law, and in the view of the Panel, the requirements of PS 3250 paragraph 59 are intended to be applied to the more complex legal context of surplus withdrawal, rather than a broader context of contribution holidays.

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Panel view

Unilateral control is not a requirement for asset recognition. An asset subject to joint control can ~~still~~ be recognized under PSAS. The joint sponsors jointly control the entire net pension asset, and can recognize an asset relating to their portion of that jointly controlled asset.

Panel View - Recognition

PS 3250 requires the *recognition* of an asset for the government's portion of the plan surplus for both plans.

Those assets may require a valuation allowance. The measurement of those assets is addressed in the next section.

Measurement issues

Overview of guidance on measurement of an accrued benefit asset

- A primary source of GAAP should apply if it exists. PS 3250 paras 50-59 provide~~s~~ guidance on measuring any accrued benefit asset that results when the plan assets are measured at an amount greater than the accrued benefit obligation. As the guidance on defined benefit plans is applied to JDBPs prior to the government recognizing its portion of the plan, the valuation guidance should also be applied to the plan as a whole, prior to the joint sponsors recognizing their respective portions of the result.
- If applying the guidance in PS 3250 results in an amount of an accrued benefit asset for the plan after a valuation allowance has been applied, if necessary, then by definition this amount equates to the expected future benefit that the sponsors can access in the plan and its portion would be eligible for asset recognition in the books of the joint sponsor.
- PS 3250 defines an accrued benefit asset as "the amount of any asset recognized on a government's statement of financial position in respect of employee retirement benefits before deducting any valuation allowance that may be required. It is the sum of the government's accumulated cash contributions less the sum of the current and prior years' benefit expenses (before any change in the valuation allowance)."
- Accrued benefit asset is adjusted for ~~any~~ net unamortized losses, if any, before testing for the valuation allowance to give the adjusted benefit asset. "Adjusted

benefit asset is an accrued benefit asset less the amount, if any, by which the aggregate of any unamortized actuarial losses exceeds the aggregate of any unamortized actuarial gains.” This is because the net unamortized losses will ~~unwind~~ reduce the accrued benefit asset automatically over time based on the accounting model in PS 3250. No adjustment is made for net unamortized gains as these would only increase the accrued benefit asset. In the case of OTPP and OPSEUPP there are net unamortized gains, and so the accrued benefit asset equals the adjusted benefit asset.

- PS 3250 requires ~~that~~ the expected future benefit ~~is~~ to be compared to the adjusted benefit asset
- PS 3250 specifies how the expected future benefit is to be calculated:

  A government determines its expected future benefit as the sum of:

a) the present value of its expected future accruals for service for the current number of active employees, less the present value of required employee contributions and minimum contributions the government is required to make regardless of any surplus; and

b) the amount of the plan surplus that can be withdrawn in accordance with the existing plan and any applicable laws and regulations.

1) Impact of legally enforceable rights on calculation of expected future benefit amount

- PS 3250 uses the phrase “expected future benefits”. This language indicates that future benefits only have to be expected, they do not have to be certain. Under the standard there are two ways that expected future benefits may be realized – through the withdrawal o~~r~~f surplus or through using the surplus to ~~fund~~ pay for ~~the expense of~~ benefits earned by members in future periods – that is, paying lower contributions into the plan in the future, often referred to as a “contribution holiday”.
- The panel did not put any emphasis on expected future benefits arising from withdrawal of plan ~~surplus~~assets, as the Provincial Government does not expect to benefit from surpluses through a withdrawal, and there is no explicit right for the sponsors to claim a withdrawal from the plans. In fact OPSEUPP explicitly states that the ~~sponsors~~ employers are not entitled to have any surplus paid out of the plan, and ~~both OTPP and~~ OPSEUPP ~~plans~~ states that upon wind up any surplus must be used to the benefit of members (18.3 of the OPSEUPP text) while the OTPP is silent in regard to surplus on wind-up (s.118a of OTPP Plan text).
- PS 3250 paragraph 52 notes that the expected future benefits may be ~~impacted~~ affected if a government is not entitled to benefit fully from those expected future benefits or there are uncertainties as to the legal right to use a plan surplus. Such

Commented [PO23]: Emphasize that this is the same language used in the definition of any asset.

limitations might occur when there is an ~~explicit restriction in the plan text~~enduring promise from an employer that ~~employers must~~it will always match the members' contributions, which might limit the ~~government's~~ employer's ~~entitlement~~ ability to benefit fully from future reductions in contributions. However, in the OTPP there is no such restriction. The government's ~~match to members'~~ contribution~~s~~ required by the Teachers' Pension Act is limited to a maximum of the members' contributions. The current arrangement that the employers match a prior years' contribution level by members is by agreement of the joint sponsors and may be changed in the future as part of the negotiations to create an actuarially balanced funding valuation. Similarly, for OPSEUPP the plan text agreed to matching employer/member contributions, but this may also be changed through a decision by a sponsor to utilize its RSF to reduce its special payments or normal cost contributions.~~the exercise of shared control with the other joint sponsor.~~ It should also be noted that contributions would be matched if both employer and employee contributions were reduced. This is clearly contemplated in the OTPP FMP as both are currently contributing in excess of the normal "run rate" for contributions.

- Ultimately, all the decisions regarding plan contributions and plan benefits rest~~s~~ with the joint sponsors and there are no legal uncertainties regarding the sponsors' rights, as joint sponsors, to determine contribution and benefit levels. It is clearly laid out in the legal and contractual arrangements of both OTPP and OPSEUPP.
- PS 3250 paragraph 59 requires a legally enforceable right to exist before an expected future benefit can be recognized for a withdrawal or surplus. The Panel believes that these requirements apply specifically to the expected future benefits of paragraph 56 (b) and not to the amounts calculated in accordance with 56 (a) amounts. Each sentence in paragraph 59, ~~excluding~~ other than the last sentence, ~~in paragraph 59~~ specifically refers to a withdrawal of assets from the plan. Legally speaking, and consistent with the plan text~~s~~ of OPSEUPP, a contribution holiday is not the same as a withdrawal of surplus - these are two separate concepts.
- The last sentence in paragraph 59 ~~does~~ refers to changes in the allocation of surplus. OTPP and OPSEUPP existing plan documents govern the allocation of surplus or ~~provide the~~establish a process ~~on~~ governing~~to~~ how to agree upon the allocation of surplus on an equitable basis. In the case of OTPP, the Partners' Agreement and Funding Management Policy provide a clear process governing surplus utilization that begins with the identification of a surplus in a preliminary valuation and extends through good faith bargaining, mediation and final and binding arbitration. T~~t~~here is no ~~requirement~~ need to change~~s~~ the ~~existing allocation of surplus or the~~ existing rights within the contractual arrangement in

order for the government joint sponsor ~~to use their~~ ~~its~~ ~~existing rights under the shared control arrangement to~~ to negotiate an expected future benefit. In the case of OPSEUPP, the surplus is currently allocated to each joint sponsor the form of their respective stabilization reserve pools.

- Any change to the plan documents would be needed to alter ~~this~~these arrangements and would affect the accounting when it became effective.

Panel View

- A joint sponsor does not have to have a unilateral legally enforceable right to reduce future contributions at the balance sheet date to have an expected future benefit under paragraph 56 (a). A reasonable expectation of an "expected" future benefit, based on the plan structure and documentation, and reflecting the plan's history, is, in the Panel's judgment, an appropriate basis for an expected future benefit.

2) Calculation of the present value of expected future accruals for service for the current number of active employees

- PS 3250 provides ~~further~~ guidance on how to calculate the present value of expected future accruals for service for the current number of active employees.
- Under this guidance, this amount is determined on a basis consistent with the accrued benefit obligation. The calculation is based on an open group~~-~~, which ~~is the idea~~assumes that the current number of employees will exist ~~for~~ in perpetuity. This is generally recognized in practice as being an appropriate assumption for the application of this test under PSAS, unless ~~there is an expected~~a significant change in the number of members is expected, for example because a plan is closed to new members or because of a planned restructuring. The panel is not aware of any such changes that are expected for either OTPP or OPSEUPP.
- The guidance notes that in addition to the expected future accrual for service, the expected administrative and investment expenses to be paid out of the plan can be~~en~~ included in the calculation, if they are not already taken into account in the expected return of assets rate.
- The Panel suggests that the Province might consider to what extent the expenses paid out of the plans could be ~~added to~~ included in the determination of the economic benefit.

3) What are the "minimum contributions the government is required to make regardless of any surplus"

Commented [LD24]: Note – this analysis does not mention the FMP and funding zones etc.
Panel to advise if this should be added in anywhere and if so, where?

- The objective of the test in paragraph 56 (a) is to determine whether a sponsor will be able to obtain expected future benefit from an existing surplus~~,~~ by reducing ~~their~~ its contributions below the expected cost of benefits for future services to be provided under the plan.
- The purpose of the minimum contributions test is to determine whether ~~there are~~ requirements exist that would ~~make~~ require a sponsor to continue to make contributions ~~cash~~ at a certain level, even when there are plan surpluses, and thus make it impossible for the sponsor to obtain a reduction in ~~cash~~ contributions to the plan.
- For a single sponsor plan, common practice in Canada under pension legislation is to consider that the sponsor can take a contribution holiday unless ~~they have~~it has made a commitment to match the contributions of the members or make a fixed level of contributions regardless of any surplus in the plan. The Panel concluded~~s~~ that~~, following the guidance in PS 3250 that the plan is accounted for as a whole using the Defined Benefit guidance and then the government picks up its portion of the plan, a similar logic should apply to JDBPs –~~ the joint sponsors can take a contribution holiday unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan.
- A question arises as to whether the surplus that is contemplated in the phrase “regardless of any surplus” is an accounting surplus or a funding surplus. The panel understands that in practice actuaries interpret this ~~in practice~~ to be funding surplus and not accounting surplus, and that if any contributions are required when there is a funding surplus these would be minimum contributions.
- There is also a question as to whether a joint sponsor can ~~create~~ impose a minimum contribution requirement on the other joint sponsor because shared control means that both sponsors must agree to any change in contribution levels.~~,~~ ~~t~~Therefore, absent any agreement, the existing contribution levels are “fixed” and cannot be changed. However this view would not be consistent with the notion that the valuation allowance is being applied to the plan as a whole, with the joint sponsors able to collectively control the contribution levels under the plan arrangements. Equal reduced contributions for both members and employers benefit both joint sponsors
- It is relevant to note that, as OTPP always requires that an actuarially balanced valuation ~~allowance to~~ be filed for regulatory purposes, there is no funding surplus that arises, as any preliminary funding surplus must be dealt with through the negotiation process. A funding surplus could arise prior to the mandatory filing of the next actuarially balanced funding valuation, as this must occur only once every three years. However, the joint sponsors ~~can~~ may agree to file a funding valuation every year if they choose, to rebalance the contributions, reserves, and benefits of the plan. As the joint sponsors must agree on the

contribution levels and make corresponding changes to the plan ~~text~~ if necessary, there are no "minimum contributions" that must be made, regardless of any surplus, as there is no minimum level of contributions that must be agreed upon by the joint sponsors. They can agree to any level of contributions as long as the result is~~n~~ actuarially balanced and so the level of surplus absolutely affects the contributions that are determined by this negotiation process. While it might be expected that some level of contributions will be made in the future to fund the benefits cost of future services, there is no method ~~of~~ for determining under the contractual arrangements what this would be, given that the level is subject to negotiation~~ and must be negotiated~~. As such the "minimum contributions" cannot be determined.

- Similarly, for OPSEUPP the stabilization reserves act as limits on the amount of funding surplus that accrues~~d~~ in the plan. Whether these stabilization reserves are used to reduce contributions or are maintained as a buffer against variability on contribution rates is at the discretion of the ~~joint~~ sponsors. This is very similar to the ability that a single sponsor has to reduce contributions or maintain a reserve as a buffer for future changes in actuarial assumptions.

- The Panel noted that a number of calculations regarding the expected future benefit for both OTPP and OPSEU were made, based on different assumptions regarding what were the minimum contributions required under each plan. For example, scenarios included minimum contributions as the agreed upon contribution until the next mandatory negotiations in three years; minimum contributions as the currently agreed upon contributions for a longer period; and minimum contributions ~~as~~ equal to the currently agreed upon contributions until certain ~~limited~~ limitations on contributions under the Income Tax Act would be expected to kick in. These various views exist because the standard does not currently provide clear guidance on how to apply the definition of "minimum contributions regardless of any surplus".

- If no expected future benefit to Gov't sponsor, then is also no expected future benefit to joint sponsor. Does this make sense? Is this consistent with public expectations and expectations of the other sponsor?

Panel view - Measurement

- Based on the analysis of the plan arrangements for OTPP and OPSEUPP, the level of minimum contributions required regardless of any surplus is lower than the present value of expected future accruals for service for the current number of active employees. This conclusion holds true for all scenarios identified above. All things being equal this creates headroom that could support the recognition of an amount in respect of the net pension asset of OTPP and OPSEUPP?.

- Recommendations to province – be mindful that if have a funding surplus and have a legal requirement to continue to contribute could be minimum contributions.

Recommendations to PSAB Employment Future Benefits Task Force

Application of guidance to Joint defined benefit plans

- The Panel notes that the standard is not clear on how the ability to access expected future benefits should be applied in the context of Joint Defined Benefit Plans. A clarification on how the guidance in PS 3250.81 should be applied (Interpretation A or Interpretation B) would be helpful.

Minimum contributions

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that funding valuations drive decision making over plan funding including contribution increases or reductions by sponsors. However, funding valuations may result in net pension assets or liability that are very different from the accounting net pension asset or liability. This results in a lack of clarity ~~over~~ about whether minimum contributions may be ~~made~~ required "regardless of any surplus" and whether a sponsor will be able to access an accounting surplus when the funding surplus is much smaller, or is a funding liability. There is some difficulty in determining what are minimum contributions in the context of joint DB plans when future contributions are dependent on the funded status of the plan and negotiation.
- For example, should the minimum contributions test be based on accounting surplus or funding surplus? Is it a present surplus or can it be a projected future surplus? Additional clarity on what constitutes a "minimum contribution" could increase consistency of application of this guidance for joint defined benefit plans [and single sponsor plans? yes].

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Commented [PO25]: Other than one negotiated with the other sponsor? If the sponsors agree to increase the surplus, like OTPP, to create stabilization and adverse deviation reserves, are those minimum contributions that affect the calculation?

Commented [MG26]: At best, an agreement to make contributions at a specified level is an agreement that binds the partners until the partners decide to change it. Isn't this the real test for 'minimum contributions': are there minimum contributions that the sponsors are required to make due to legal or other factors beyond their joint control? If the sponsors can change the contribution level at any time

Commented [LD27]: These are currently in no particular order. Panel to advise as to ranking?

Commented [MG28]: doesn't this same difficulty arise in single employer sponsored DB plans, since the discrepancy between funding and accounting valuations occurs in any DB arrangement?

Deferral accounting

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that the existing deferral provisions have the potential to result in an asset being recognized on financial statements when there is no underlying economic resource. Although this is not the case for either the OTPP or the OPSEUPP, this could occur when unamortized losses exist such that despite the the fair value of the plan assets being less than the estimated accrued benefit obligation, an accrued benefit asset could still be presented. This can be confusing to users of the financial statements as it is not transparent as to the underlying economic resource of the plan. Transparency is in the public interest. and transparency would suggest that it is important to recognize all liabilities or assets that exist and not to recognize assets where there is no underlying resource that gives rise to future economic benefit. Any mechanisms used to deal with potential income statement volatility concerns should ensure that these do not result in lack of transparency on the balance sheet. [Reference to IPSAS 39]

Discount rates

- The Panel supports PSAB examining discount rates for employment benefits. The Panel understand that in the public sector a sponsor borrowing rate is often used for unfunded plans and an asset return rate is used for funded plans. An appropriate asset return rate will vary depending on how assets are invested. The discount rates used by public sector entities ~~may~~ is also likely to be different tha~~e~~n the discount rates used in the Plan's own financial statements prepared under Part IV of the CPA Canada Handbook – Accounting, resulting in significantly different measurements of accrued benefit obligations for the same plan in different financial statements. This inconsistency ~~could be~~is confusing to users.

  The Panel observes that many more recent accounting pronouncements relating to liability measurement require that the discount rate used to measure the liability capture the risks inherent in that liability. The panel suggests that the Employment Benefit Task Force consider whether the method intended to be used to settle an obligation should affect how that obligation is measured and how the risks inherent in the obligation are best captured either in the discount rate or in other aspects of the measurement of the obligation.

Funding valuation

- As a funding valuation may result in a funding surplus or deficit that is very different ~~than~~ from the accounting surplus or deficit this may be confusing to some users where both measures are presented in the same document.
- The Panel believes it may be beneficial to include additional discussion in a revised standard or other material about how the objectives and assumptions in funding valuations may differ from those used in the accounting valuation and why.
- The Panel suggests that a disclosure highlighting the quantitative differences in the funding valuation compared to the accounting valuation should be made in the financial statements of pension plans and/or in the financial statements of sponsors when information on the funding valuation of a plan is also made public or available to the same users of the financial statements. This would be useful to users as it would provide additional context for both the accounting and funding valuations.

Commented [LD29]:
Is this going to far?
Otherwise, have to think about how we highlight that this recommendation is to AcSB and not PSAB/Task force.

APPENDIX A – PENSION PLAN GOVERNING ARRANGEMENTS

OTPP

- The *Teachers' Pension Act*, R.S.O. 1990, c.T.1 (Link to the Teachers' Pension Act);
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The plan text for OTPP;
- An agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Minister of Education and Training and The Ontario Teachers' Federation represented by its Executive, dated July 15, 1991, as amended (The Partners' Agreement);
- A Funding Management Policy, attached as Appendix A to the Partners' Agreement (FMP).

OPSEU

- The Ontario Public Service Employees' Union Pension Act, 1994 S.O. 1994, c 17, s.143 Sched (Link to the Ontario Public Service Employees' Union Pension Act)
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The sponsorship agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Chair of the Management Board of Cabinet and the Ontario Public Service Employees' Union, dated April 18, 1994, as amended (The Sponsorship Agreement);
- The Agreement and Declaration of Trust of OPSEU Pension Plan Trust Fund, dated October 25, 1994, as amended (The Trust Agreement);
- The plan text for OPSEUPP;
- OP Trust Funding policy.

Appendix B - Accounting references

Commented [LD30]: Current parking lot – to be completed and refined .

IPSASB 39. 67. A net defined benefit asset may arise where a defined benefit plan has been overfunded or where actuarial gains have arisen. An entity recognizes a net defined benefit asset in such cases because:

(a) The entity controls a resource, which is the ability to use the surplus to generate future benefits;

(b) That control is a result of past events (contributions paid by the entity and service rendered by the employee); and

(c) Future economic benefits are available to the entity in the form of a reduction in future contributions or a cash refund, either directly to the entity or indirectly to another plan in deficit. The asset ceiling is the present value of those future benefits

Appendix C

- Compare to BC and NB plans. Key differences here is that documents, including the contribution rates, can change if agreed upon by joint sponsors.

Commented [NT31]: o/s need to understand why the AG referred to these – is there a concern that we need to address that we have not yet.

3 - PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v3 MG.docx

PENSION ASSET EXPERT ADVISORY PANEL

[DRAFT] REPORT (MG Comments Dec 17, 2016)

[NTD - o/s Cover letter? (including mandate summary)

Executive Summary]

Mandate of the Panel

- Pension Asset Expert Advisory Panel (the Panel) was formed to address
    - The requirement regarding control with respect to recognizing a pension asset for a joint defined benefit plan
    - The requirement regarding control with respect to recognizing a pension asset for other pension plans
    - Appropriate valuation techniques to measure a pension asset that take into consideration future decision making authority by plan sponsors
    - Recommendations to the Employee Future Benefits Task Force of the Public Sector Accounting Board regarding issues that should be considered in its review of the retirement and post-employment benefits standards.

- Looked at recognition and measurement of pension assets arising in certain jointly sponsored pension plans (specifically, the Ontario Teachers' Pension Plan (OTPP) and the Ontario Public Service Employees' Union Pension Plan (OPSEUPP), collectively the "Plans") in accordance with Canadian public sector accounting standards (PSAS).

- The recognition and measurement of pension assets arising in other plans, such as the Healthcare of Ontario Pension Plan (HOOPP) and the Colleges of Applied Arts and Technology Pension Plan (CAATPP) will be covered in a later supplemental report that considers the different attributes of these plans

Nature of the pension plans examined

- Pension plans are not all alike. Each pension plan has distinct contractual and other arrangements that must be considered in assessing the accounting for that plan.
- The relevant ~~legislative acts~~legislation and contractual arrangements governing the Plans that were considered by the Panel are listed in Appendix A.
- ~~While the~~The Provincial Government ~~has the legislative ability to change the relevant Acts, it~~ has ~~also~~ entered into contractual arrangements with the employee sponsor(s) of the Plans that govern the relationship between the Plan sponsors, including with regard to plan surpluses and deficiencies. For accounting purposes the existing contractual agreements are past transactions and are used for assessing existing rights and powers under the arrangements. Changes to the contractual arrangements (or whether a government's has the ability to set aside a contract using sovereign power) are not considered unless, or until, any such changes ~~were to~~ become effective.
- Under pension legislation (in Ontario, the Ontario Pension Benefits Act), there are several categories of defined benefit plans. Jointly sponsored pension plans are a separate category from single sponsor plans or multi-employer plans and have different regulatory requirements.
- Similarly, under PSAS there are several categories of defined benefit plans, which include joint defined benefit pension plans (JDBPs) as a separate category from single sponsor or multi-employer plans.
- In JDBP~~'~~s a government sponsor share~~s~~ the risks ~~and rewards~~ of a defined benefit plan with plan participants, represented by a sponsor or sponsors. The key characteristic of a JDBP is that there is a formal agreement between the sponsors which establishes~~d~~ that the sponsors have shared control over the plan. By definition, neither sponsor has unilateral control over the plan, as joint control (shared decision making) is an ~~inherent~~ essential requirement for a JDBP.
- Other characteristics of JDBPs include:
  - Funding contributions are shared mutually between the government and plan members
  - The sponsors have shared control over decisions related to ~~the administration of the plan and~~ the level of benefits and contributions on an ongoing basis based on the terms of the contractual agreement as well as arrangements for the administration of the plan
  - The sponsors share, on an equitable basis, the significant risks, both positive and negative, associated with the benefit plan.

Commented [MG1]: Do we need this sentence? There is litigation over the government's ability to unilaterally legislate changes to a pension arrangement, and I would prefer to avoid the issue if we can.

- Historically, OTPP was a single employer sponsored plan until 1992 when it was converted to be a jointly sponsored pension plan (PBA) and became a joint defined benefit plan for accounting purposes. OPSEUPP was carved out of the Public Service Pension Plan (a single sponsor plan) in 1995 and established as a jointly sponsored pension plan (PBA) and a joint defined benefit plan for accounting purposes.
- The motivation for making these changes was ~~so~~ for the Provincial Government ~~could~~ to transfer a share of the risks of the obligation to the members of the plans. In return for taking on a share of the risk of the obligation, the members received an equitable share of any surplus in the plan (both the upside and downside of plan performance are equitably shared) and the member Sponsors received the right to participate in shared control of the plan, meaning ~~both~~ that the arrangement contemplates ongoing discussions between the sponsoring parties ~~to agree to significant~~and joint decision-making about issues ~~plan~~ decisions such as plan structure, benefits available under the plan, contribution rates, funding levels and other policy decisions.
- As both the funding risk and rewards and the governance of the plan are shared between the employer sponsor(s) and the employee sponsor(s) the move from a single sponsored plan to a jointly sponsored plan was considered by all parties to be a fair and equitable ~~deal~~ arrangement for both sides while achieving a public policy aim o~~fr~~ reducing the risk of the obligation to the Provincial Government.

Commented [LD2]: This was the language in my notes, but perhaps there is a better way of phrasing this? "an equitable economic arrangement"?

- The fundamental difference between single sponsor defined benefit plans and joint sponsor defined benefit plans is that the control that a single sponsor would have over setting contribution rates and benefits has been replaced with joint control over those decisions. The sharing of the risks ~~and rewards~~ of the pension plan on an equitable basis is consistent with the sharing of control over those policies that influence the outcomes of the pension plan.

OTPP – Structure and organization

Sponsors

- The OTPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Minister of Education and Training) as the employer Sponsor and the Ontario Teachers' Federation (represented by its Executive) as the employee Sponsor. The ~~partnership~~ Partners' A~~a~~greement between the joint sponsors sets out how shared control is achieved and governs all aspects of the plan.
- Other employers also~~are part of~~participate in the plan, ~~meaning~~ such that the OTPP is also a multi-employer plan, but these employers are not sponsors.

Decision making

- The OTPP Board is appointed by the joint sponsors and is responsible for the administration of the pension plan and investment of the pension fund. It develops and implements an investment strategy,~~, such as investment of assets, payment of~~pays pension ~~–~~benefits, ~~preparation~~ authorizes the preparation of ~~pension~~ actuarial valuations and generally manages~~ing~~ the pension plan and fund.
- The Board does not make any fundamental decisions regarding benefits and contributions as these decisions rest with the joint sponsors' Partners Committee, to which an equal number of representatives are appointed by each sponsor.

Funding arrangements

- ~~The~~ A basic funding ~~arrangement~~ provision, set out in the Teachers' Pension Act, is that the employers' contributions ~~shall~~ must not exceed those ~~of~~ made by the members in the year before the preceding year.
- Historically, the Employers have matched the members' contributions, based on the members' contributions in the year before the ~~a~~ previous year. This has resulted~~s~~ in contributions being made typically on a 50:50 basis between employers and members (except where specifically agreed otherwise).
- A limited exception to the matching contribution provisions also reflects the sharing principle underlying the OTPP. In the event that conditional indexation benefits are not paid by the OTPP in a year, the amount of this benefit reduction is matched by a corresponding contribution from OTPP employers.
- The contractual arrangements require ~~that~~ an actuarial valuation for funding purposes ~~is~~ to be prepared at least once every three years to comply with the *Pension Benefits Act*. This actuarial valuation is required to be "actuarially balanced" – meaning that the benefits and costs to be paid from the fund plus any contingency reserve must equal~~s~~ the present value of the members' and employers' contributions and special payments. Procedurally, the tri-ennial valuation process commences with a~~A~~ preliminary valuation ~~is~~ prepared by the Board's actuary based on the existing terms of the plan. ~~but t~~To the extent that this preliminary valuation is not actuarially balanced, the joint sponsors must negotiate and agree what changes to the plan must be made in order to reach an actuarially balanced valuation that will subsequently be filed. This process means there is no funding surplus or deficit in the final funding valuation.
- The changes to the plan agreed upon by the joint sponsors could be to increase or decrease contributions for employers and/or members or to improve benefits payable to members. Money may also be left in an actuarial reserve. Negotiations must be ~~made~~ carried on in good faith and if an agreement is not

Commented [LD3]: Note, it is actually the "year before the preceeding year" to two years previous. Did not think it necessary to get into this detail, but it is why it says "a" previous year not "the" previous year.

reached within a certain time frame a mediator may be appointed by the joint sponsors, and, if necessary a board of arbitration.

- The joint sponsors have agreed to a Funding Management Policy (FMP) which~~,~~ ~~although not binding,~~ sets a framework for the sponsors to negotiate the use of any funding surpluses or the funding of deficits. The FMP, in combination with the *Income Tax Act (Canada)*, ~~clearly indicates~~requires that once the OTPP meets certain funding thresholds, ~~above a certain funding? range~~ the ~~sponsors~~ Partners ~~can~~ must~~?~~ negotiate either to lower contributions or provide temporary or permanent benefit enhancements (or some combination of the two).
- The OTPP plan text does not limit the outcomes of the negotiation between the joint sponsors. There is no minimum level or fixed range of contributions by members or employers that cannot be changed through the required negotiations.

OPSEUPP – Structure and organization

Sponsors

- The OPSEUPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Chair of the M~~m~~anagement Board of Cabinet) as the employer Sponsor and the Ontario Public Service Employees' Union as the employee Sponsor.
- The joint sponsors established a trust (OP Trust) and the declaration of trust between the joint sponsors and the trustees of OP Trust sets out how shared control is achieved and governs all aspects of the plan.
- ~~Other employers are part of the plan, meaning the OPSEUPP is also a multi-employer plan, but these employers are not sponsors.~~

Decision making

- The ~~Trustee~~ Board of Trustees administers the plan and an equal number of trustees are appointed by each of the Provincial Government and OPSEU.
- The ~~Trustee~~ Board of Trustees ~~votes on~~makes decisions ~~resolutions~~ by majority vote. This means that at least one T~~t~~rustees representing ~~both~~ each of the Provincial Government and OPSEU must agree to a resolution in order for it to be adopted. In the case of a deadlock there are agreed upon procedures to ~~determine~~ appoint a temporary 11th trustee, as agreed by both the sponsors (or, if necessary, appointed by~~?~~ the Chief Justice of Ontario).

Commented [MG4]: I think the FMP is binding on the Partners, but is not binding on the Board as the board is not a party to the FMP. The FMP is, technically, part of the Partners' Agreement.

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Commented [LD5]: Confirm this is correct. Sponsor agreement states it is a single employer plan, but other parts of the plan text indicates that it is multi employer with crown corps etc.

Commented [MG6]: OPTrust is deemed not to be a multi-employer plan notwithstanding certain characteristics that might suggest otherwise.

Commented [LD7]: I'm not clear on whether this is an administrative Board or a representative Board – please advise.

Commented [PO8]: I thought that if none of the pre-authorized third trustees was available, the decision maker was to **be** the Chief Justice.

Commented [MG9]: The Chief Justice is responsible for selecting an 11th Trustee but is not the 11th Trustee. See 7.02 of Trust Agreement.

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- The ~~trustees~~ Board of Trustees is ~~are~~ responsible for the administration of the OPSEUPP and the investment of the OPSEU Pension Fund. It develops and implements an investment strategy, pays pension benefits, authorizes the preparation of actuarial valuations and generally manages the pension plan and fund. ~~including the investment of assets, payments of benefits, receipt of contributions, preparation and filing of actuarial valuations in accordance with the Pension Benefits Act~~
- The Board of T~~t~~rustees ~~have~~ has no power to amend the plan or the trust agreement. All decisions regarding contribution levels and benefits to be provided under the plan are the responsibility of the sponsors, except where the PBA's minimum funding rules impose additional contributions or special payments.
- Amendments to the trust agreement, plan text and sponsorship agreement require unanimous written consent of the sponsors.

Funding arrangements

- The basic ~~funding~~ contribution requirement ~~arrangement in~~under the OPSEUPP text is that employers match the contributions of the members, subject to a two month lag (s.4.6 of OPTrust Plan Text).
- The Board of Trustees, and the Plan actuary, are responsible for the Plan's actuarial valuations and the actuarial assumptions used in those valuations. While valuations must be filed with the pension regulator every three years under the PBA, the Board of Trustees may elect to file a valuation more frequently s1.3 of OPTrust Funding Policy).
- In the event that a funding valuation discloses net actuarial gains after non-defrayed obligations have been met, those net actuarial gains are equally divided between an Employer 'Rate Stabilization Fund' (RSF) and a Member RSF (s.56(c) and s.57 of OPTrust Sponsorship Agreement). Through collective bargaining, an allocation of funding surpluses on a basis that is different from 50/50 may be agreed. The Province may retain its RSF as a reserve or use the Employer RSF to reduce its special payments or its normal costs and OPSEU may retain its RSF as a reserve or utilize its RSF in its discretion, subject only to the provisions of the PBA and the *Income Tax Act (Canada).* The OPTrust Board of Trustees has no authority with respect to the use or application of either RSF, but has recommended to OPTrust's sponsors that each RSF not exceed 12.5% of net actuarial liabilities (5.2 of OPTrust Funding Policy). There are no restrictions on how each party bargains the use of their surplus. There is no minimum level or fixed range of contributions by members or employers that cannot be changed by agreement of the joint sponsors or through the use of their respective surplus portions.

Commented [LD10]: Panel to confirm this is an appropriate summary

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- In the event of a funding deficiency, member and employer contributions are increased equally to fund the deficiency (s.58 of OPTrust Sponsorship Agreement). The only exception is in the event that the Province or OPSEU has an RSF and chooses to apply it to offset its share of a funding deficiency.
- ~~Funding zone agreements~~
- In principle, with a sufficient RSF, either OPSEU or the Province could reduce their contributions to zero. ~~Limits (or lack thereof) on negotiation of contributions set by plan text~~
- The plan text (s.6.4) clearly states that no amount of surplus shall be paid out of the plan to the Provincial Government or any participating employer. Contribution holidays, however, are not treated as a surplus withdrawal, and are clearly permissible under the OPTrust Sponsorship Agreement and Plan Text. ~~However, it is also clearly stated that contribution reductions are not considered to be a pay out of surplus.~~
- ~~Any net actuarial gains that arise (after funding certain specific transitional liabilities which have now been satisfied?) are to be used equally for the benefit of the sponsors (employers and OPSEU). Specifically, 50% of the gain may be collectively bargained? and used to the benefit of the employers, and 50% of the gain may be collectively bargained and used for the benefit of plan members. There are no restrictions on how each party bargains the use of their surplus. There is no minimum level or fixed range of contributions by members or employers that cannot be changed by agreement of the joint sponsors or through the use of their respective surplus portions.~~

Commented [MG11]: OPTrust does not have funding zones in the OTPP sense – zones that are defined by the circumstances of the plan vis-à-vis run rates, with different discount rates and different permissible uses of surplus.

Commented [LD12]: Check wording against plan text – o/s to find reference.

Commented [MG13]: Yes, they have been satisfied.

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Panel view

Both OTPP and OPSEUPP have been accounted for as joint defined benefit plans in the Public Accounts of Ontario accordance with PS 3250 since that standard was issued in 2001. The Auditor General also agrees with this classification of both plans.

The panel agrees with the accounting classification of both plans as joint defined benefit plans.

Determination of relevant accounting guidance

- The accounting analysis is performed ~~under~~ in accordance with Public Sector Accounting Principles (PSAS) as issued by the Canadian Public Sector Accounting Board.

- PSAS ~~provides~~ identifies sources of guidance in determining appropriate accounting principles in PS 1150. First must follow any specific standard that relates to the issue under consideration (apply every source of primary GAAP). In this case, PS 3250, *Retirement benefits* is a standard that ~~relates to~~ specifically addresses the accounting for defined benefit pension plans. Further, PS 3250 also defines and contains specific guidance ~~specifically~~ on accounting for joint defined benefit plans.
- If a primary GAAP source, such as PS 3250, is not clear, the government would develop an accounting policy considering other standards within PSAS and Section 1000, *Financial Statement Concepts*.
- A government may also refer to accounting guidance in other GAAP frameworks as long as those frameworks are consistent with PSAS standards and Section 1000 above.

Panel View

- The Panel considered the guidance in PS 3250.
- In addition, the panel noted that there were some areas where PS 3250 is not clear with respect to how the guidance in PS 3250 applies to JDBPs. In these cases the panel referred to relevant other guidance, as identified in the analysis below.

Commented [PO14]: The uncertainty regarding the ceiling test both w.r.t. "minimum contributions regardless of surplus" and the period for which contributions are fixed I think arises for all plans not just JDBPs?

Recognition issues

1) Application of Defined Benefit accounting to Joint Defined Benefit Plans

- PS 3250 Paragraph 81states "When a government participates in a joint defined benefit plan, the government's risk is limited to its portion of the plan. The government should account for its portion of the plan in accordance with the standards for defined benefit plans".
- The panel discussed two possible interpretations of how this guidance is to be applied to JDBPs:
    - Interpretation A) Divide the plan between the sponsors' respective portions, and the government applies the guidance on Defined Benefit plans in PS 3250 only to ~~their~~ its portion;
    - Interpretation B) The government applies ~~-~~the Defined Benefit guidance in PS 3250 to the plan as a whole ~~using~~ and then recognizes only its portion of the plan in its financial statements

- The interpretation of this paragraph affects the perspective through which the asset recognition guidance in PSAS and the guidance on defined benefit plans in PS 3250 is applied (to the plan or the government's portion of the plan).
- For example, under interpretation A, dividing the plan first would entail measuring plan assets at the government's share, determining the accrued benefit obligation at the government's share and then applying the valuation allowance to any net accrued benefit asset that arises.
- Under interpretation B, the assets and accrued benefit obligation amounts for the whole plan are measured in accordance with PS 3250. The valuation allowance guidance is applied to any accrued benefit asset that arises on the plan as a whole. The government then calculates its portion of the accrued benefit asset, net of any valuation allowance in determining the amount of asset to recognize in the Public Accounts.

- Interpretation B is, in the view of the Panel, a more appropriate answer because it aligns most closely with the concepts of Defined Benefit accounting in PS 3250 and with the economic substance of joint defined benefit plan arrangements.
    - Defined Benefit plan accounting in Financial Statements for all plans is based on a *net* amount of plan assets less accrued benefit obligations. Rather than presenting plan assets as "Assets" of the government and plan liabilities as "Liabilities" of the government these are presented as a net asset or liability, which reflects that the plan is a separate entity. This accounting is more similar to an "equity method" of accounting which reflects the sponsor's interest in the net assets (or net liability) of a plan than to a proportionate consolidation accounting. Therefore it similarly is appropriate to calculate the net assets (or liabilities) in the plan in accordance with accounting standards before determining the sponsor's portion of the plan.
    - The fundamental difference between a single sponsor plan and a joint defined benefit plan is in the latter control is shared and a sponsor has only a portion of the positive or negative risks ~~and rewards~~. It would be consistent to calculate the plan net asset or net liability in the same manner as for single sponsor plan – on a whole plan basis – before accounting for the shared control distinction by determining what is the government's portion that net asset or net liability.
    - The contractual arrangements between the Sponsors affect the plan as a whole because there is joint control over the plan as a whole and not unilateral control by each sponsor over ~~their~~ its portion of the plan. For example, there is one funding policy, one Partners' agreement (OTPP) or

Commented [PO15]: This is the key point and should therefore be moved earlier.

sponsorship agreement (OPSEUPP), one plan text and so on that govern the respective plans. A determination of the assets and the liabilities can only be made with reference to the plan as a whole. Therefore it also follows that other aspects of the guidance for accounting for defined benefit plans, such as the valuation allowance guidance, should be applied to the plan as a whole prior to determining a ~~government's~~ sponsor's portion. This may be particularly important when the portion is determined on an equitable basis, but not necessarily an equal (50:50) basis

- An important characteristic of JDBPs is that there is an equitable sharing of the plan which applies to both risks and rewards and is the underlying ~~business~~ economic rationale for a JDBP. It would not be an equitable sharing for a sponsor to have only an obligation for a net liability without any access to a net asset position. One of the implications of Interpretation A is that the sponsors might recognize a liability for their portion of a net liability but be unable to recognize an asset for their portion of a net asset. In the view of the Panel would not faithfully represent the underlying risks and rewards of the arrangement.
- The Panel believes that if the PSAB had intended joint defined benefit plans to apply the valuation allowance guidance for defined benefit plan accounting only to a portion of the plan they would have provided additional guidance as to how this should be performed.

Commented [PO16]: More importantly, the standard says "follow the DB guidance and then account for your potion".

Application to OTPP and OPSEPP

- The OTPP plan states that the risks [and rewards] are shared between employers and members on an equitable basis, which has historically been ~~on a~~ 50:50 when considered over the long term.
- The OPSEUPP plan indicates that any actuarial gains are allocated ~~to~~ between the employers and members on a 50:50 basis. Each sponsor can ~~and~~ then ~~this portion may be utilized by that party as they determine over time~~utilize its portion as it unilaterally determines. This means that members and employers could utilize their gains at different times, as historically has been the case. This means that the portion of any net asset that relates to the government's share may fluctuate as a percentage of the total net asset balance and may not result in the government having a 50% portion of the net asset at any one time.

Panel View

The Panel believes it is appropriate to apply all aspects of the guidance for accounting for defined benefit plans in PS 3250 to a JDBP prior to determining the government's portion of that plan for recognition ~~within~~ in the financial statements.

2) Definition of an asset – Is there an economic resource

- Under PSAS ~~an~~ assets are defined as "economic resources controlled by a government as a result of past transactions or events and from which future economic benefits are expected to be obtained".
- The resource in question is the accounting accrued benefit asset that arises from applying the accounting guidance in measuring plan assets and the accrued benefit obligation, including the provisions regarding the deferral of unamortized gains or losses. The accrued benefit asset may be very different from any ~~funding~~ surplus calculated under an actuarial valuation performed for funding purposes. Funding valuations may use different actuarial methods and assumptions, such as a provision for adverse deviations. However, under accounting standards ~~it~~ any surplus represents the best estimate of the accrued benefit obligation and the fair value of the plan assets, as adjusted for the permitted deferral provisions. Notwithstanding there is a degree of measurement uncertainty regarding both the measurement of the plan assets and the accrued benefit obligation, PS 3250 – the primary source of GAAP for retirement benefit plans – clearly requires ~~that~~ such an asset ~~is~~ to be recognized for a single sponsored plan~~s~~. Consistent with the discussion in 1) above, for JDBP plans these requirements are still applicable and this asset should be considered in the context of the plan as a whole, prior to determining what portion of the asset (if any) is the government's share. That is, there is no requirement for the amount of any asset to be precisely determinable under 3250 or any other standard.

- The ~~recognition of an~~ accrued benefit asset recognized for accounting purposes is then subject to the measurement provisions of the valuation allowance guidance (See section on "Measurement" below).

- In addition to the requirement of PS 3250 to recognize an accrued benefit asset, the Panel also noted the following guidance indicates that an accrued benefit asset in a JDBP represents an economic resource that gives rise to future economic benefits:
    - PSAS provides additional guidance on economic resources and future economic benefits in PS 3210, *Assets,* which is effective from April 1,

2017. An economic resource embodies value because it enables an entity to meet its objectives, such as the provision of public goods and services, redistribution of wealth, generation of cash inflows or reduction of cash outflows. An accrued benefit asset in a pension plan is a resource because it can be used to generate future benefits. This view is confirmed by guidance in IPSAS~~B~~ 39.67

  - The economic resource (plan surplus for accounting purposes) can provide future economic benefits to the joint sponsors in the form of a reduction of cash outflows in the future because it can be used to reduce future contributions, as long as the sponsors are expected to be able to access those future contribution reductions (3210.04(a)). This view is confirmed by guidance in IPSAS~~B~~ 39.67

- In a joint defined benefit plan, the sponsors form a control group. When looking at whether the sponsors can access future contribution reductions or a withdrawal of surplus in meeting the asset definition for the plan as a whole the rights of the sponsors collectively should be considered.
- There is considerable case law in Canada addressing single sponsor plans and the ability of that sponsor to either withdraw surplus from the plan or take contribution holidays. Critical to assessing the ability of the sponsor to withdraw surplus or take contribution holidays ~~is~~ are the plan trust agreement and plan text; clear rights within the plan ~~text~~ documents can support the sponsor's right to withdraw surplus or take contribution holidays. However, the law treats surplus withdrawals on a very different basis from contribution holidays.
- Surplus withdrawals are highly regulated by the PBA, and are regulated differently depending upon whether a surplus withdrawal is being considered from a continuing plan or on plan wind-up. A threshold question in any case of withdrawal is legal entitlement or 'ownership' of surplus, and it is often the case that entitlement is not clear, and that neither the employer nor the plan members have an incontrovertible claim to a plan surplus. In Ontario, all surplus withdrawals are subject to the review and consent of the Superintendent of Financial Services. In addition, either legal entitlement to the surplus must be established or there must be an agreement between the employer, active members and retired members about the surplus withdrawal. Arbitratoin procedures may also be utilized in some juriusdictions to determine an allocation of surplus. ~~when the plan text is not clear, there may be legal uncertainties as to whether the sponsor "owns" the surplus. Withdrawal of surplus by the sponsor is generally subject to regulatory and legal hurdles, such as either approval by the Financial Services Commission of Ontario approval with a court order an arbitration award or an agreement between employer and members for any surplus withdrawal~~?~~. Therefore under~~Under applicable case law and the PBA, it

Commented [LD17]: We discuss this access in detail a bit later on.
To consider flow and placement of support some more when drafting final report.
This thought is not quite well enough supported here.

Commented [LD18]: To Panel: In fleshing out the first section, I felt that these items did not fit well in the "nature of pension plans" section, so suggest moving them here as they relate to the recognition issues. However, would like feedback on whether this revised flow works or these should be moved back.

Commented [LD19]: Question for Murray – is this in the right place?
This sentence was in the bulleted draft, however, not clear whether this relates only to legal uncertainties over the surplus (i.e. withdrawal) or is a more general comment covering contribution holidays. If the latter then it should be moved somewhere else.

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is generally considered that a sponsor does not have a legal right to withdraw a surplus until these hurdles have been passed. ~~, unless there is a clear right in the plan text.~~

Commented [PO20]: True? I thought that contributions to the plan became trusteed assets and all withdrawals required approval.

- Conversely, the PBA expressly permits contribution holidays without any requirement for Superintendent review or approval. Although certain plan provisions have been found to prohibit contribution holidays, this is the exception rather than the rule and contribution holidays are commonly taken by Canadian defined benefit plans. In general, ~~if the plan text~~ a plan text need not expressly permit a contribution holiday in order for a plan sponsor to reduce its contribution on account of a funding surplus. It is generally the case that the plan actuary may take surplus into account in determining the required level of employer contributions; the plan actuary is only prohibited from doing so where express plan provisions require employer contributions regardless of any plan surplus. ~~is not clear on the right of a sponsor to be able to reduce contributions, generally Canadian case law would support that the sponsor has the right and ability to utilize surplus through contribution holidays.~~
- An analysis of the plan documents for OTPP and OPSEU indicate that in both plans the sponsors negotiate and agree on contribution rates. This means that collectively the sponsors can exercise their shared control to reduce future contributions to the plan and access their portion of the economic resource in the form of future economic benefits. In the case of OTPP the government can benefit from the economic resource through the negotiation process over contributions required to make the actuarial valuation actuarially balanced. Similarly the government can benefit from any OPSEUPP asset through their ability to ~~bargain~~ utilize their allocated 50% of any actuarial ~~gains~~surplus to reduce contributions.

- PS 3320 applies to contingent assets which are defined as "possible assets arising from existing conditions or situations involving uncertainty. That uncertainty will ultimately be resolved when one or more future events not wholly within the public sector entity's control occurs or fails to occur. Resolution of the uncertainty will confirm the existence or non-existence of an asset". ~~The implication of a~~A contingent asset is ~~that it is~~ not recognized in financial statements because there is uncertainty as to whether an asset exists. An accrued benefit asset is not an uncertain economic resource. While there is ~~measurement~~ uncertainty regarding the measurement of an accrued benefit asset due to the necessity of making ~~a number of~~ actuarial assumptions regarding demographic and financial ~~actuarial assumptions~~factors as well as fair values of plan assets, there is no uncertainty as to whether the plan exists, and therefore over the underlying existence of any estimated accrued benefit asset as an economic resource. PS 3320 notes that "The mere fact that an estimate of an amount is involved (measurement uncertainty) does not, in and of itself, constitute the type of uncertainty that characterizes a contingent asset". The extent of the economic resource becomes clear as measurement uncertainty is resolved not as future events occur or fail to occur. As such, PS 3320 is not a relevant source of guidance in considering whether an asset exists in respect of an accrued benefit asset.

Commented [MG21]: future events may increase or diminish the value of asset, but this, I expect, is irrelevant to the question of whether the asset exists and its value at a point in time.

Panel view

The accounting asset meets the definition of an economic resource because the accrued benefit asset exists and future benefit is available to the sponsors in accordance with the plan documents. There is no existence uncertainty regarding the net pension asset.

3) Definition of an asset - Control

- The definition of an asset under PSAS requires ~~that~~ an economic resource ~~is~~ to be controlled by a Government. PS 3210.16 ~~expands on~~discusses the application of this control requirement noting that control exists when a government can benefit from economic resource, when they can deny or regulate access to the resource, and when they are exposed to risks associated with the economic resource.
- An accrued benefit asset in a joint defined benefit plan ~~still~~ meets the asset definition from the perspective of a joint sponsor as the joint sponsor is exposed to risks associated with the resource as they are exposed to risk of plan surplus changing from a ~~change~~ variation in actuarial assumptions. ~~The government~~Each sponsor may also regulate access to the resource because joint control means that ~~they~~ each must agree to any changes to the plan text or contractual arrangement and as such can deny the other sponsor access to the resource to the extent that joint decisions must be made over the use of the asset.
- As noted above in the case of OTPP and OPSEU the government can benefit from the economic resource.
- Shared control means that ~~there is control, but that~~ control over the plan as a whole is exercised through the joint sponsors as a control group. The contractual arrangements for OTPP and OPSEUPP set out how that joint control is exercised, including how surpluses and deficits are dealt with. In the context of PS 3250, the defined benefit guidance is to be applied to each plan, and then the members of control group each pick up their share. This shared control relationship contrasts with participating employers that are not part of the control

Commented [MG22]: true for OTPP, but joint agreement not necessary for OPSEUPP group, as those employers ~~do~~ are not able to regulate or deny access to the plan assets and therefore cannot control access to the economic resource of a net plan asset.

- By definition, a joint sponsor of a JDBP ~~does~~ cannot have unilateral control or unilateral rights to the surplus of a JDBP. Instead there is an agreed upon, pre-determined process.~~,~~ ~~with~~ That process provides certainty that a conclusion on the use of any surplus will be reached ~~and~~ with the expectation that the outcome of the process will be an equitable sharing of any surplus, as equitable sharing is a key characteristic of a JDBP.
- There are other examples in PSAS where joint control results in asset recognition. PS 3060 requires asset recognition for government ~~business~~ partnerships subject to shared control using the modified equity method. Similarly, PS 3060 requires proportionate consolidation for other government partnerships, which results in a government recognizing a proportionate share of the capital assets held under joint control, for example, even though the government cannot control the use of that asset unilaterally. If a jointly controlled asset cannot meet the recognition criteria for an asset then it would logically follow that no investments in government partnerships could be recognized. As it is, such assets are recognized by governments applying PSAS in their public accounts. The ~~same~~ logic that shared control can ~~still~~ result in asset recognition should apply to a pension asset of a JDBP.
- PS 3250 does require ~~that there is~~ an existing legally enforceable right to recognize an asset based on the withdrawal of a surplus. This ~~does not mean that there has to be~~ is quite different from a legally enforceable right to reduce contributions to the plan in the future. ~~in order to have control of the economic resource.~~ Under pension law, withdrawal of pension surplus ~~have~~ has different legal characteristics from contribution holidays. The former is typically legally uncertain and is regulated by the PBA. Surplus withdrawals require regulatory consent and either a Court order confirming surplus entitlement or a negotiated agreement with employees and retirees. ~~requires that assets already paid into a trust and for which no claim is clearly retained in the plan document, is reclaimed~~?. The latter, which is also a form of economic benefit, is permitted under the PBA and rarely limited by plan documents. It requires that assets are not paid into a trust in the future and that the existing claim on those assets is not given up by the sponsor.? This is a distinction established in law, and in the view of the Panel, the requirements of PS 3250 paragraph 59 are intended to be applied to the more complex legal context of surplus withdrawal, rather than a broader context of contribution holidays.

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Panel view

Unilateral control is not a requirement for asset recognition. An asset subject to joint control can ~~still~~ be recognized under PSAS. The joint sponsors jointly control the entire net pension asset, and can recognize an asset relating to their portion of that jointly controlled asset.

Panel View - Recognition

PS 3250 requires the *recognition* of an asset for the government's portion of the plan surplus for both plans.

Those assets may require a valuation allowance. The measurement of those assets is addressed in the next section.

Measurement issues

Overview of guidance on measurement of an accrued benefit asset

- A primary source of GAAP should apply if it exists. PS 3250 paras 50-59 provide~~s~~ guidance on measuring any accrued benefit asset that results when the plan assets are measured at an amount greater than the accrued benefit obligation. As the guidance on defined benefit plans is applied to JDBPs prior to the government recognizing its portion of the plan, the valuation guidance should also be applied to the plan as a whole, prior to the joint sponsors recognizing their respective portions of the result.
- If applying the guidance in PS 3250 results in an amount of an accrued benefit asset for the plan after a valuation allowance has been applied, if necessary, then by definition this amount equates to the expected future benefit that the sponsors can access in the plan and its portion would be eligible for asset recognition in the books of the joint sponsor.
- PS 3250 defines an accrued benefit asset as "the amount of any asset recognized on a government's statement of financial position in respect of employee retirement benefits before deducting any valuation allowance that may be required. It is the sum of the government's accumulated cash contributions less the sum of the current and prior years' benefit expenses (before any change in the valuation allowance)."
- Accrued benefit asset is adjusted for ~~any~~ net unamortized losses, if any, before testing for the valuation allowance to give the adjusted benefit asset. "Adjusted

benefit asset is an accrued benefit asset less the amount, if any, by which the aggregate of any unamortized actuarial losses exceeds the aggregate of any unamortized actuarial gains.” This is because the net unamortized losses will ~~unwind~~ reduce the accrued benefit asset automatically over time based on the accounting model in PS 3250. No adjustment is made for net unamortized gains as these would only increase the accrued benefit asset. In the case of OTPP and OPSEUPP there are net unamortized gains, and so the accrued benefit asset equals the adjusted benefit asset.

- PS 3250 requires ~~that~~ the expected future benefit ~~is~~ to be compared to the adjusted benefit asset
- PS 3250 specifies how the expected future benefit is to be calculated:
  A government determines its expected future benefit as the sum of:

a) the present value of its expected future accruals for service for the current number of active employees, less the present value of required employee contributions and minimum contributions the government is required to make regardless of any surplus; and

b) the amount of the plan surplus that can be withdrawn in accordance with the existing plan and any applicable laws and regulations.

1) Impact of legally enforceable rights on calculation of expected future benefit amount

- PS 3250 uses the phrase “expected future benefits”. This language indicates that future benefits only have to be expected, they do not have to be certain. Under the standard there are two ways that expected future benefits may be realized – through the withdrawal of~~r~~ surplus or through using the surplus to ~~fund~~ pay for ~~the expense of~~ benefits earned by members in future periods – that is, paying lower contributions into the plan in the future, often referred to as a “contribution holiday”.
- The panel did not put any emphasis on expected future benefits arising from withdrawal of plan ~~surplus~~assets, as the Provincial Government does not expect to benefit from surpluses through a withdrawal, and there is no explicit right for the sponsors to claim a withdrawal from the plans. In fact OPSEUPP explicitly states that the ~~sponsors~~ employers are not entitled to have any surplus paid out of the plan, and ~~both OTPP and~~ OPSEUPP ~~plans~~ states that upon wind up any surplus must be used to the benefit of members (18.3 of the OPSEUPP text) while the OTPP is silent in regard to surplus on wind-up (s.118a of OTPP Plan text).
- PS 3250 paragraph 52 notes that the expected future benefits may be ~~impacted~~ affected if a government is not entitled to benefit fully from those expected future benefits or there are uncertainties as to the legal right to use a plan surplus. Such

Commented [PO23]: Emphasize that this is the same language used in the definition of any asset.

limitations might occur when there is an ~~explicit restriction in the plan text~~enduring promise from an employer that ~~employers must~~it will always match the members' contributions, which might limit the ~~government's~~ employer's ~~entitlement~~ ability to benefit fully from future reductions in contributions. However, in the OTPP there is no such restriction. The government's ~~match to members'~~ contribution~~s~~ required by the Teachers' Pension Act is limited to a maximum of the members' contributions. The current arrangement that the employers match a prior years' contribution level by members is by agreement of the joint sponsors and may be changed in the future as part of the negotiations to create an actuarially balanced funding valuation. Similarly, for OPSEUPP the plan text agreed to matching employer/member contributions, but this may also be changed through a decision by a sponsor to utilize its RSF to reduce its special payments or normal cost contributions.~~the exercise of shared control with the other joint sponsor.~~ It should also be noted that contributions would be matched if both employer and employee contributions were reduced. This is clearly contemplated in the OTPP FMP as both are currently contributing in excess of the normal "run rate" for contributions.

- Ultimately, all the decisions regarding plan contributions and plan benefits rest~~s~~ with the joint sponsors and there are no legal uncertainties regarding the sponsors' rights, as joint sponsors, to determine contribution and benefit levels. It is clearly laid out in the legal and contractual arrangements of both OTPP and OPSEUPP.
- PS 3250 paragraph 59 requires a legally enforceable right to exist before an expected future benefit can be recognized for a withdrawal or surplus. The Panel believes that these requirements apply specifically to the expected future benefits of paragraph 56 (b) and not to the amounts calculated in accordance with 56 (a) amounts. Each sentence in paragraph 59, ~~excluding~~ other than the last sentence, ~~in paragraph 59~~ specifically refers to a withdrawal of assets from the plan. Legally speaking, and consistent with the plan text~~s~~ of OPSEUPP, a contribution holiday is not the same as a withdrawal of surplus - these are two separate concepts.
- The last sentence in paragraph 59 ~~does~~ refers to changes in the allocation of surplus. OTPP and OPSEUPP existing plan documents govern the allocation of surplus or ~~provide the~~establish a process ~~on~~ governing~~to~~ how to agree upon the allocation of surplus on an equitable basis. In the case of OTPP, the Partners' Agreement and Funding Management Policy provide a clear process governing surplus utilization that begins with the identification of a surplus in a preliminary valuation and extends through good faith bargaining, mediation and final and binding arbitration. T~~t~~here is no ~~requirement~~ need to change~~s~~ the ~~existing allocation of surplus or the~~ existing rights within the contractual arrangement in

order for the government joint sponsor ~~to use their its existing rights under the shared control arrangement to~~ to negotiate an expected future benefit. In the case of OPSEUPP, the surplus is currently allocated to each joint sponsor the form of their respective stabilization reserve pools.

- Any change to the plan documents would be needed to alter ~~this~~these arrangements and would affect the accounting when it became effective.

Panel View

- A joint sponsor does not have to have a unilateral legally enforceable right to reduce future contributions at the balance sheet date to have an expected future benefit under paragraph 56 (a). A reasonable expectation of an "expected" future benefit, based on the plan structure and documentation, and reflecting the plan's history, is, in the Panel's judgment, an appropriate basis for an expected future benefit.

2) Calculation of the present value of expected future accruals for service for the current number of active employees

- PS 3250 provides ~~further~~ guidance on how to calculate the present value of expected future accruals for service for the current number of active employees.
- Under this guidance, this amount is determined on a basis consistent with the accrued benefit obligation. The calculation is based on an open group~~-~~, which ~~is the idea~~assumes that the current number of employees will exist ~~for~~ in perpetuity. This is generally recognized in practice as being an appropriate assumption for the application of this test under PSAS, unless ~~there is an expected~~a significant change in the number of members is expected, for example because a plan is closed to new members or because of a planned restructuring. The panel is not aware of any such changes that are expected for either OTPP or OPSEUPP.
- The guidance notes that in addition to the expected future accrual for service, the expected administrative and investment expenses to be paid out of the plan can be~~en~~ included in the calculation, if they are not already taken into account in the expected return of assets rate.
- The Panel suggests that the Province might consider to what extent the expenses paid out of the plans could be ~~added to~~ included in the determination of the economic benefit.

3) What are the "minimum contributions the government is required to make regardless of any surplus"

Commented [LD24]: Note – this analysis does not mention the FMP and funding zones etc.
Panel to advise if this should be added in anywhere and if so, where?

- The objective of the test in paragraph 56 (a) is to determine whether a sponsor will be able to obtain expected future benefit from an existing surplus~~,~~ by reducing ~~their~~ its contributions below the expected cost of benefits for future services to be provided under the plan.
- The purpose of the minimum contributions test is to determine whether ~~there are~~ requirements exist that would ~~make~~ require a sponsor to continue to make contributions ~~cash~~ at a certain level, even when there are plan surpluses, and thus make it impossible for the sponsor to obtain a reduction in ~~cash~~ contributions to the plan.
- For a single sponsor plan, common practice in Canada under pension legislation is to consider that the sponsor can take a contribution holiday unless ~~they have~~it has made a commitment to match the contributions of the members or make a fixed level of contributions regardless of any surplus in the plan. The Panel conclude~~ds~~d that~~, following the guidance in PS 3250 that the plan is accounted for as a whole using the Defined Benefit guidance and then the government picks up its portion of the plan, a similar logic should apply to JDBPs –~~ the joint sponsors can take a contribution holiday unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan.
- A question arises as to whether the surplus that is contemplated in the phrase “regardless of any surplus” is an accounting surplus or a funding surplus. The panel understands that in practice actuaries interpret this ~~in practice~~ to be funding surplus and not accounting surplus, and that if any contributions are required when there is a funding surplus these would be minimum contributions.
- There is also a question as to whether a joint sponsor can ~~create~~ impose a minimum contribution requirement on the other joint sponsor because shared control means that both sponsors must agree to any change in contribution levels.~~, t~~Therefore, absent any agreement, the existing contribution levels are “fixed” and cannot be changed. However this view would not be consistent with the notion that the valuation allowance is being applied to the plan as a whole, with the joint sponsors able to collectively control the contribution levels under the plan arrangements. Equal reduced contributions for both members and employers benefit both joint sponsors
- It is relevant to note that, as OTPP always requires that an actuarially balanced valuation ~~allowance to~~ be filed for regulatory purposes, there is no funding surplus that arises, as any preliminary funding surplus must be dealt with through the negotiation process. A funding surplus could arise prior to the mandatory filing of the next actuarially balanced funding valuation, as this must occur only once every three years. However, the joint sponsors ~~can~~ may agree to file a funding valuation every year if they choose, to rebalance the contributions, reserves, and benefits of the plan. As the joint sponsors must agree on the

contribution levels and make corresponding changes to the plan ~~text~~ if necessary, there are no "minimum contributions" that must be made, regardless of any surplus, as there is no minimum level of contributions that must be agreed upon by the joint sponsors. They can agree to any level of contributions as long as the result is~~n~~ actuarially balanced and so the level of surplus absolutely affects the contributions that are determined by this negotiation process. While it might be expected that some level of contributions will be made in the future to fund the benefits cost of future services, there is no method ~~of~~ for determining under the contractual arrangements what this would be, given that the level is subject to negotiation ~~and must be negotiated~~. As such the "minimum contributions" cannot be determined.

- Similarly, for OPSEUPP the stabilization reserves act as limits on the amount of funding surplus that accrues~~d~~ in the plan. Whether these stabilization reserves are used to reduce contributions or are maintained as a buffer against variability on contribution rates is at the discretion of the ~~joint~~ sponsors. This is very similar to the ability that a single sponsor has to reduce contributions or maintain a reserve as a buffer for future changes in actuarial assumptions.

- The Panel noted that a number of calculations regarding the expected future benefit for both OTPP and OPSEU were made, based on different assumptions regarding what were the minimum contributions required under each plan. For example, scenarios included minimum contributions as the agreed upon contribution until the next mandatory negotiations in three years; minimum contributions as the currently agreed upon contributions for a longer period; and minimum contributions ~~as~~ equal to the currently agreed upon contributions until certain ~~limited~~ limitations on contributions under the Income Tax Act would be expected to kick in. These various views exist because the standard does not currently provide clear guidance on how to apply the definition of "minimum contributions regardless of any surplus".

- If no expected future benefit to Gov't sponsor, then is also no expected future benefit to joint sponsor. Does this make sense? Is this consistent with public expectations and expectations of the other sponsor?

Panel view - Measurement

- Based on the analysis of the plan arrangements for OTPP and OPSEUPP, the level of minimum contributions required regardless of any surplus is lower than the present value of expected future accruals for service for the current number of active employees. This conclusion holds true for all scenarios identified above. All things being equal this creates headroom that could support the recognition of an amount in respect of the net pension asset of OTPP and OPSEUPP?.

- Recommendations to province – be mindful that if have a funding surplus and have a legal requirement to continue to contribute could be minimum contributions.

Recommendations to PSAB Employment Future Benefits Task Force

Application of guidance to Joint defined benefit plans

- The Panel notes that the standard is not clear on how the ability to access expected future benefits should be applied in the context of Joint Defined Benefit Plans. A clarification on how the guidance in PS 3250.81 should be applied (Interpretation A or Interpretation B) would be helpful.

Minimum contributions

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that funding valuations drive decision making over plan funding including contribution increases or reductions by sponsors. However, funding valuations may result in net pension assets or liability that are very different from the accounting net pension asset or liability. This results in a lack of clarity ~~over~~ about whether minimum contributions may be ~~made~~ required "regardless of any surplus" and whether a sponsor will be able to access an accounting surplus when the funding surplus is much smaller, or is a funding liability. There is some difficulty in determining what are minimum contributions in the context of joint DB plans when future contributions are dependent on the funded status of the plan and negotiation.
- For example, should the minimum contributions test be based on accounting surplus or funding surplus? Is it a present surplus or can it be a projected future surplus? Additional clarity on what constitutes a "minimum contribution" could increase consistency of application of this guidance for joint defined benefit plans [and single sponsor plans? yes].

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Commented [PO25]: Other than one negotiated with the other sponsor? If the sponsors agree to increase the surplus, like OTPP, to create stabilization and adverse deviation reserves, are those minimum contributions that affect the calculation?

Commented [MG26]: At best, an agreement to make contributions at a specified level is an agreement that binds the partners until the partners decide to change it. Isn't this the real test for 'minimum contributions': are there minimum contributions that the sponsors are required to make due to legal or other factors beyond their joint control? If the sponsors can change the contribution level at any time

Commented [LD27]: These are currently in no particular order. Panel to advise as to ranking?

Commented [MG28]: doesn't this same difficulty arise in single employer sponsored DB plans, since the discrepancy between funding and accounting valuations occurs in any DB arrangement?

Deferral accounting

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that the existing deferral provisions have the potential to result in an asset being recognized on financial statements when there is no underlying economic resource. Although this is not the case for either the OTPP or the OPSEUPP, this could occur when unamortized losses exist such that despite the the fair value of the plan assets being less than the estimated accrued benefit obligation, an accrued benefit asset could still be presented. This can be confusing to users of the financial statements as it is not transparent as to the underlying economic resource of the plan. Transparency is in the public interest. and transparency would suggest that it is important to recognize all liabilities or assets that exist and not to recognize assets where there is no underlying resource that gives rise to future economic benefit. Any mechanisms used to deal with potential income statement volatility concerns should ensure that these do not result in lack of transparency on the balance sheet. [Reference to IPSAS 39]

Discount rates

- The Panel supports PSAB examining discount rates for employment benefits. The Panel understand that in the public sector a sponsor borrowing rate is often used for unfunded plans and an asset return rate is used for funded plans. An appropriate asset return rate will vary depending on how assets are invested. The discount rates used by public sector entities ~~may~~ is also likely to be different tha~~e~~n the discount rates used in the Plan's own financial statements prepared under Part IV of the CPA Canada Handbook – Accounting, resulting in significantly different measurements of accrued benefit obligations for the same plan in different financial statements. This inconsistency ~~could be~~is confusing to users.

  The Panel observes that many more recent accounting pronouncements relating to liability measurement require that the discount rate used to measure the liability capture the risks inherent in that liability. The panel suggests that the Employment Benefit Task Force consider whether the method intended to be used to settle an obligation should affect how that obligation is measured and how the risks inherent in the obligation are best captured either in the discount rate or in other aspects of the measurement of the obligation.

Funding valuation

- As a funding valuation may result in a funding surplus or deficit that is very different ~~than~~ from the accounting surplus or deficit this may be confusing to some users where both measures are presented in the same document.
- The Panel believes it may be beneficial to include additional discussion in a revised standard or other material about how the objectives and assumptions in funding valuations may differ from those used in the accounting valuation and why.
- The Panel suggests that a disclosure highlighting the quantitative differences in the funding valuation compared to the accounting valuation should be made in the financial statements of pension plans and/or in the financial statements of sponsors when information on the funding valuation of a plan is also made public or available to the same users of the financial statements. This would be useful to users as it would provide additional context for both the accounting and funding valuations.

Commented [LD29]:
Is this going to far?
Otherwise, have to think about how we highlight that this recommendation is to AcSB and not PSAB/Task force.

APPENDIX A – PENSION PLAN GOVERNING ARRANGEMENTS

OTPP

- The *Teachers' Pension Act*, R.S.O. 1990, c.T.1 (Link to the Teachers' Pension Act);
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The plan text for OTPP;
- An agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Minister of Education and Training and The Ontario Teachers' Federation represented by its Executive, dated July 15, 1991, as amended (The Partners' Agreement);
- A Funding Management Policy, attached as Appendix A to the Partners' Agreement (FMP).

OPSEU

- The Ontario Public Service Employees' Union Pension Act, 1994 S.O. 1994, c 17, s.143 Sched (Link to the Ontario Public Service Employees' Union Pension Act)
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The sponsorship agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Chair of the Management Board of Cabinet and the Ontario Public Service Employees' Union, dated April 18, 1994, as amended (The Sponsorship Agreement);
- The Agreement and Declaration of Trust of OPSEU Pension Plan Trust Fund, dated October 25, 1994, as amended (The Trust Agreement);
- The plan text for OPSEUPP;
- OP Trust Funding policy.

Appendix B - Accounting references

IPSASB 39. 67. A net defined benefit asset may arise where a defined benefit plan has been overfunded or where actuarial gains have arisen. An entity recognizes a net defined benefit asset in such cases because:

(a) The entity controls a resource, which is the ability to use the surplus to generate future benefits;

(b) That control is a result of past events (contributions paid by the entity and service rendered by the employee); and

(c) Future economic benefits are available to the entity in the form of a reduction in future contributions or a cash refund, either directly to the entity or indirectly to another plan in deficit. The asset ceiling is the present value of those future benefits

Commented [LD30]: Current parking lot – to be completed and refined .

Appendix C

- Compare to BC and NB plans. Key differences here is that documents, including the contribution rates, can change if agreed upon by joint sponsors.

Commented [NT31]: o/s need to understand why the AG referred to these – is there a concern that we need to address that we have not yet.

3A - Email - December 18 2016 - Re_ PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v3 MG.pdf

From: Patricia O"Malley
To: Murray Gold; Uros Karadzic (uros.karadzic@ca.ey.com); Martin, Paul (FIN) (Paul.Martin@gnb.ca)
Cc: lucy.durocher@ca.pwc.com; Tam, Nelson (TBS)
Subject: Re: PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v3 MG
Date: December-18-16 3:57:19 PM
Attachments: logo_d1ac01ba-f783-4248-82df-84549cb6f0b7.png

Murray
Thanks so much for getting this done before you left. Travel well and have a super vacation!
See you in January.
Tricia

From: Murray Gold <mgold@kmlaw.ca>
Sent: December 17, 2016 18:27
To: Patricia O'Malley (plomalley@outlook.com); Uros Karadzic (uros.karadzic@ca.ey.com); Martin, Paul (FIN) (Paul.Martin@gnb.ca)
Cc: lucy.durocher@ca.pwc.com; Tam, Nelson (TBS) (Nelson.Tam@ontario.ca)
Subject: PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v3 MG

All,

Here are my comments on Lucy's excellent draft. I may have gotten a bit carried away in the descriptions of the underlying arrangements – please feel free to cut those additions down. A added a number of section references, as these may be useful to you in reviewing the draft and the documents. Depending on our final format, these can be deleted or changed into footnotes.

Best of the season,

Murray

KOSKIE MINSKY
JUSTICE MATTERS

Murray Gold
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KOSKIE
MINSKY
JUSTICE MATTERS

4 - Email - December 19 2016 - Draft report with comments and changes tracked..pdf

From:	Martin, Paul (FIN)
To:	"Murray Gold"; Patricia O"Malley (plomalley@outlook.com); Uros Karadzic (uros.karadzic@ca.ey.com)
Cc:	lucy.durocher@ca.pwc.com; Tam, Nelson (TBS)
Subject:	Draft report with comments and changes tracked.
Date:	December-19-16 9:43:50 AM
Attachments:	image001.png PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v2 PMartin.docx

My changes and comments as tracked in the attached document.

Best regards,
Paul

Paul Martin, FCPA, FCA
Comptroller/Contrôleur
Office of the Comptroller/Bureau du contrôleur
Treasury Board/Conseil du Trésor

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image001.pdf

New Nouveau Brunswick
CANADA

PENSION ASSET EXPERT ADVISORY PANEL REPORT Dr_3.pdf

PENSION ASSET EXPERT ADVISORY PANEL

[DRAFT] REPORT

[NTD - o/s Cover letter? (including mandate summary)

Executive Summary]

Mandate of the Panel

- The Pension Asset Expert Advisory Panel (the Panel) was formed to address
  - The requirement regarding control with respect to recognizing a pension asset for a joint defined benefit plan
  - The requirement regarding control with respect to recognizing a pension asset for other pension plans
  - Appropriate valuation techniques to measure a pension asset that take into consideration future decision making authority by plan sponsors
  - Recommendations to the Employee Future Benefits Task Force of the Public Sector Accounting Board regarding issues that should be considered in its review of the retirement and post-employment benefits standards.
- Looked at recognition and measurement of pension assets arising in certain jointly sponsored pension plans (specifically, the Ontario Teachers' Pension Plan (OTPP) and the Ontario Public Service Employees' Union Pension Plan (OPSEUPP), collectively the "Plans") in accordance with Canadian public sector accounting standards (PSAS).
- The recognition and measurement of pension assets arising in other plans, ~~such as~~specifically the Healthcare of Ontario Pension Plan (HOOPP) and the Colleges of Applied Arts and Technology Pension Plan (CAATPP), will be covered in a later supplemental report that considers the different attributes of these plans

Nature of the pension plans examined

- Pension plans are not all alike. Each pension plan has distinct ~~contractual and other~~ arrangements that must be considered in assessing the accounting ~~for that plan~~.
- The relevant legislative acts and contractual arrangements governing the Plans that were considered by the Panel are listed in Appendix A.
- While the Provincial Government has the legislative ability to change the relevant Acts, it has also entered into contractual arrangement with the employee sponsor(s). For accounting purposes the existing contractual agreements are past transactions and are used for assessing existing rights and powers under the arrangements. Changes to the contractual arrangements (or a government's ability to set aside a contract using sovereign power) are not considered unless, or until, any such change were to become effective.
- Under pension legislation, there are several categories of defined benefit plans. Jointly sponsored pension plans are a separate category from single sponsor plans or multi-employer plans and have different regulatory requirements.
- ~~Similarly, u~~Under Public Sector Accounting Standards (PSAS) there are several categories of defined benefit plans, which include joint defined benefit pension plans (JDBPs) as a separate category from single sponsor or multi-employer plans.
- In JDBP's a government shares the risks and rewards of a defined benefit plan with plan participants, represented by a sponsor or sponsors. ~~The~~ A key characteristic of a JDBP is ~~that there is~~ a formal agreement between the sponsors which establishes~~d~~ ~~that the sponsors have~~ shared control over the plan. By definition, neither sponsor has unilateral control over the plan, as joint control (shared decision making) is an inherent requirement for a JDBP.
- Other characteristics of JDBPs include:
    - Funding contributions are shared mutually between the government and plan members
    - The sponsors have control over decisions related to the administration of the plan and the level of benefits and contributions on an ongoing basis based on the terms of the contractual agreement
    - The sponsors share, on an equitable basis, the significant risks associated with the benefit plan.

- ~~Historically,~~ OTPP was a single sponsored plan until 1992 when it was converted to be a jointly sponsored pension plan and ~~became~~ a joint defined benefit plan for accounting purposes. OPSEUPP was ~~carved~~ separated out of the Public Service

Pension Plan (a single sponsor plan) in 1995 and established as a jointly sponsored pension plan and joint defined benefit plan for accounting purposes.

- The motivation for making these changes was so the Provincial Government could transfer a share of the risks of the obligation to the members of the plans. In return for taking on a share of the risk of the obligation, the members received an equitable share of any surplus in the plan (both the upside and downside of plan performance are equitably shared) and the member Sponsors received the right to participate in shared control of the plan, meaning both parties to agree to significant plan decisions such as plan structure, benefits available under the plan, contribution rates, funding levels and other policy decisions.
- As both the funding risk and rewards and the governance of the plan are shared between the employer sponsor(s) and the employee sponsor(s) the move from a single sponsored plan to a jointly sponsored plan was considered to be an equitable basis ~~fair deal~~ for both sides ~~while achieving a public policy aim or reducing the risk of the obligation to the Provincial Government~~.

- ~~The~~ A fundamental difference between single sponsor defined benefit plans and joint sponsor defined benefit plans is that the control that a single sponsor would have over setting contribution rates and benefits. Plan oversight has been replaced with joint control over those decision. The sharing of the risks and rewards of the pension plan on an equitable basis is consistent with the sharing of control over those policies that influence the outcomes of the pension plan.

Commented [LD1]: This was the language in my notes, but perhaps there is a better way of phrasing this?

OTPP – Structure and organization

Sponsors

- The OTPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Minister of Education and Training) as the employer Sponsor and the Ontario Teachers' Federation (represented by its Executive) as the employee Sponsor.
- The partnership agreement between the joint sponsors sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OTPP is also a multi-employer plan, but these employers are not sponsors.

Decision making

- The OTPP Board is appointed by the joint sponsors and is responsible for the administration of the pension plan, such as investment of assets, payment of benefits, preparation of pension valuations and managing the pension fund.

- The Board does not make any fundamental decisions regarding benefits and contributions as these decisions rest with the joint sponsors' Partners Committee, to which an equal number of representatives are appointed by each sponsor.

Funding arrangements

- The basic funding arrangement in the Teachers' Pension Act is that the employers' contributions shall not exceed those of the members.
- Historically, the Employers have matched the members' contributions, based on the members' contributions in a previous year. This has results in contributions being made typically on a 50:50 basis between employers and members (except where specifically agreed otherwise).
- The contractual arrangements require that an actuarial valuation for funding purposes is prepared at least once every three years to comply with the *Pension Benefits Act*. This actuarial valuation is required to actuarially balanced – meaning that the benefits and costs to be paid from the fund plus any contingency reserve equals the present value of the members and employers contributions and special payments. A preliminary valuation is prepared based on the existing terms of the plan but to the extent that this preliminary valuation is not actuarially balanced the joint sponsors must negotiate and agree what changes to the plan must be made in order to reach an actuarially balanced valuation that will be filed. This process means there is no funding surplus or deficit in the final funding valuation.
- The changes to the plan agreed upon by the joint sponsors could be to increase or decrease contributions for employers and/or members or to improve benefits payable to members. Negotiation must be made in good faith and if an agreement is not reached within a certain time frame a mediator may be appointed by the joint sponsors, and, if necessary a board of arbitration.
- The joint sponsors have agreed to a Funding Management Policy (FMP) which, although not binding, sets a framework for the sponsors to negotiate the use of any funding surpluses or deficits. The FMP clearly indicates that above a certain funding range the sponsors can negotiate to lower contributions or provide temporary or permanent benefit enhancements.
- The OTPP plan text does not limit the outcomes of the negotiation between the joint sponsors. There is no minimum level or fixed range of contributions by members or employers that cannot be changed through the required negotiations.

Commented [LD2]: Note, it is actually the "year before the preceeding year" to two years previous. Did not think it necessary to get into this detail, but it is why it says "a" previous year not "the" previous year.

Commented [PM3]: ??????

Commented [PM4]: An outcome is always achieved. T

OPSEUPP – Structure and organization

Sponsors

- The OPSEUPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Chair of the management Board of Cabinet) as the employer Sponsor and the Ontario Public Service Employees' Union as the employee Sponsor.
- The joint sponsors established a trust (OP Trust) and the declaration of trust between the joint sponsors and the trustees of OP Trust sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OPSEUPP is also a multi-employer plan, but these employers are not sponsors.

Commented [LD5]: Confirm this is correct. Sponsor agreement states it is a single employer plan, but other parts of the plan text indicates that it is multi employer with crown corps etc.

Decision making

- The Trustee Board administers the plan and an equal number of trustees are appointed by each of the Provincial Government and OPSEU.
- The Trustee Board votes on resolutions by majority vote. This means that trustees representing both the Provincial Government and OPSEU must agree. In the case of a deadlock there are agreed upon procedures to determine a temporary 11th trustee, as agreed by both the sponsors (or, if necessary, appointed by the Chief Justice of Ontario).
- The trustees are responsible for the administration of the OPSEUPP including the investment of assets, payments of benefits, receipt of contributions, preparation and filing of actuarial valuations in accordance with the Pension Benefits Act
- The trustees have no power to amend the plan or the trust agreement. All decisions regarding contribution levels and benefits to be provided under the plan are the responsibility of the sponsors
- Amendments to the trust agreement, plan text and sponsorship agreement require unanimous written consent of the sponsors.

Commented [LD6]: I'm not clear on whether this is an administrative Board or a representative Board – please advise.

Commented [PM7]: Different font showing up here?

Funding arrangements

Commented [LD8]: Panel to confirm this is an appropriate summary

- The basic funding arrangement in the OPSEUPP text is that employers match the contributions of the members.
- Funding zone agreements
- Limits (or lack thereof) on negotiation of contributions set by plan text

Commented [PM9]: What are we trying to say here?

Commented [PM10]: Not clear?

- The plan text clearly states that no amount of surplus shall be paid out of the plan to the Provincial Government or any participating employer.
- ~~However, it is also clear that c~~Contribution reductions are not considered to be a pay out of surplus.
- Any net actuarial gains that arise (after funding certain specific transitional liabilities) are to be used equally for the benefit of employers and OPSEU. Specifically, 50% of the gain may be collectively bargained and used to the benefit of the employers, and 50% of the gain may be collectively bargained and used for the benefit of plan members. There are no restrictions on how each party bargains the use of their surplus. There is no minimum level or fixed range of contributions by members or employers that cannot be changed by agreement of the joint sponsors or through the use of their respective surplus portions.

Commented [LD11]: Check wording against plan text – o/s to find reference.

Panel view

Both OTPP and OPSEUPP have been accounted for as joint defined benefit plans in the Public Accounts of Ontario accordance with PS 3250 since that standard was issued in 2001.

The panel agrees with the accounting classification of both plans as joint defined benefit plans.

Determination of relevant accounting guidance

- The accounting analysis is performed under Public Sector Accounting Principles (PSAS) as issued by the Canadian Public Sector Accounting Board.
- PSAS provides sources of guidance in determining appropriate accounting principles in PS 1150. First must follow any specific standard that relates to the issue under consideration (apply every source of primary Generally Accepted Accounting Principles (GAAP)). In this case, PS 3250, *Retirement benefits* is a standard that relates to the accounting for defined benefit pension plans. Further, PS 3250 also defines and contains guidance specifically on joint defined benefit plans.
- If a primary GAAP source, such as PS 3250, is not clear whether the government would develop an accounting policy considering other standards within PSAS and Section 1000, *Financial Statement Concepts*.
- A government may also refer to accounting guidance in other GAAP frameworks as long as consistent with PSAS standards and Section 1000 above.

Panel View

- The Panel considered the guidance in PS 3250.
- In addition, the panel noted that there were some areas where PS 3250 is not clear with respect to how the guidance in PS 3250 applies to JDBPs. In these cases the panel referred to relevant other guidance, as identified in the analysis below.

Recognition issues

1) Application of Defined Benefit accounting to Joint Defined Benefit Plans

- PS 3250 Paragraph 81states “When a government participates in a joint defined benefit plan, the government's risk is limited to its portion of the plan. The government should account for its portion of the plan in accordance with the standards for defined benefit plans”.
- The panel discussed two possible interpretations of how this guidance is to be applied to JDBPs:
  - Interpretation A) Divide the plan between the sponsors’ respective portion, and the government applies the guidance on Defined Benefit plans in PS 3250 only to their portion;
  - Interpretation B) The government applies the Defined Benefit guidance in PS 3250 to the plan as a whole ~~using~~ and then recognizes only its portion of the plan in its financial statements
- The interpretation of this paragraph affects the perspective through which the asset recognition guidance in PSAS and the guidance on defined benefit plans in PS 3250 is applied (to the plan or the government’s portion of the plan).
- For example, under interpretation A, dividing the plan first would entail measuring plan assets at the government’s share, determining the accrued benefit obligation at the government’s share and then applying the valuation allowance to any net accrued benefit asset that arises.
- Under interpretation B, the assets and accrued benefit obligation amounts for the whole plan are measured in accordance with PS 3250. The valuation allowance guidance is applied to any accrued benefit asset that arises on the plan as a whole. The government then calculates its portion of the accrued benefit asset, net of any valuation allowance in determining the amount of asset to recognize in the Public Accounts.

- Interpretation B is, in the view of the Panel, a more appropriate answer because it aligns most closely with the concepts of Defined Benefit accounting in PS 3250 and with the economic substance of joint defined benefit plan arrangements.
    - Defined Benefit plan accounting in Financial Statements is based on a *net* amount of plan assets less accrued benefit obligations. Rather than presenting plan assets as “Assets” of the government and plan liabilities as “Liabilities” of the government, these are presented as a net asset or liability, which reflects that the plan is a separate entity. This accounting is more similar to an “equity method” of accounting which reflects the sponsor’s interest in the net assets (or net liability) of a plan than to a proportionate consolidation accounting. Therefore, it ~~similarly~~ is appropriate to calculate the net assets (or liabilities) in the plan in accordance with accounting standards before determining the sponsor’s portion of the plan.
    - The fundamental difference between a single sponsor plan and a joint defined benefit plan is in the latter, control is shared and a sponsor has only a portion of the risks and rewards. It would be consistent to calculate the plan net asset or net liability in the same manner as for single sponsor plan – on a whole plan basis – before accounting for the shared control distinction by determining what is the government’s portion that net asset or net liability.
    - The contractual arrangements between the Sponsors affect the plan as a whole because there is joint control over the plan as a whole and not unilateral control by each sponsor over their portion of the plan. For example, there is one funding policy, one Partners’ agreement (OTPP) or sponsorship agreement (OPSEUPP), one plan text and so on that govern the respective plans. A determination of the assets and the liabilities can only be made with reference to the plan as a whole. Therefore, it also follows that other aspects of the guidance for accounting for defined benefit plans, such as the valuation allowance guidance, should be applied to the plan as a whole prior to determining a government’s portion. This may be particularly important when the portion is determined on an equitable basis, but not necessarily an equal (50:50) basis
    - An important characteristic of JDBPs is that there is an equitable sharing of the plan which applies to both risks and rewards and is the underlying business rationale for a JDBP. It would not be an equitable sharing for a sponsor to have only an obligation for a net liability without any access to a net asset position. One of the implications of Interpretation A is that the sponsors might recognize a liability for their portion of a net liability but be unable to recognize an asset for their portion of a net asset. In the view of

Commented [PM12]: Panel View. Do we need to separate this under such a heading?

the Panel would not faithfully represent the underlying risks and rewards of the arrangement.

- The Panel believes that if the PSAB had intended joint defined benefit plans to apply the valuation allowance guidance for defined benefit plan accounting only to a portion of the plan they would have provided additional guidance as to how this should be performed.

Application to OTPP and OPSEPP

- The OTPP plan states that the risks [and rewards] are shared between employers and members on an equitable basis, which has historically been on a 50:50 when considered over the long term.
- The OPSEUPP plan indicates that any actuarial gains are allocated to the employers and members on a 50:50 basis and then this portion may be utilized by that party as they determine over time. This means that members and employers could utilize their gains at different times, as historically has been the case. This means that the portion of any net asset that relates to the government's share may fluctuate as a percentage of the total net asset balance and may not result in the government having a 50% portion of the net asset at any one time.

Panel View

The Panel believes it is appropriate to apply all aspects of the guidance for accounting for defined benefit plans in PS 3250 to a JDBP prior to determining the government's portion of that plan for recognition within the financial statements.

2) Definition of an asset – Is there an economic resource

- Under PSAS, ~~an~~ assets are defined as "economic resources controlled by a government as a result of past transactions or events and from which future economic benefits are expected to be obtained".
- The resource in question is the accounting accrued benefit asset that arises from applying the accounting guidance in measuring plan assets and the accrued benefit obligation, including the provisions regarding the deferral of unamortized gains or losses. The accrued benefit asset may be very different from any funding surplus calculated under an actuarial valuation performed for funding purposes. Funding valuations ~~may~~ use different actuarial methods and assumptions, such as a provision for adverse deviations. However, under

accounting standards it represents the best estimate of the accrued benefit obligation and the fair value of the plan assets, as adjusted for the permitted deferral provisions. Notwithstanding there is a degree of measurement uncertainty regarding both the measurement of the plan assets and the accrued benefit obligation, PS 3250 – the primary source of GAAP for retirement benefit plans – clearly requires that such an asset is recognized for a single sponsored plans. Consistent with the discussion in 1) above, for JDBP plans these requirements are still applicable and this asset should be considered in the context of the plan as a whole, prior to determining what portion of the asset (if any) is the government's share.

- The recognition of an accrued benefit asset for accounting purposes is then subject to the measurement provisions of the valuation allowance guidance (See section on "Measurement" below).

- In addition to the requirement of PS 3250 to recognize an accrued benefit asset, the Panel also noted the following guidance indicates that an accrued benefit asset in a JDBP represents an economic resource that gives rise to future economic benefits:
    - PSAS provides additional guidance on economic resources and future economic benefits in PS 3210, *Assets,* which is effective from April 1, 2017. An economic resource embodies value because it enables an entity to meet its objectives, such as the provision of public goods and services, redistribution of wealth, generation of cash inflows or reduction of cash outflows. An accrued benefit asset in a pension plan is a resource because it can be used to generate future benefits. This view is confirmed by guidance in IPSASB 39.67
    - The economic resource (plan surplus for accounting purposes) can provide future economic benefits to the joint sponsors in the form of a reduction of cash outflows in the future because it can be used to reduce future contributions, as long as the sponsors are expected to be able to access those future contribution reductions (3210.04(a)). This view is confirmed by guidance in IPSASB 39.67
- In a joint defined benefit plan, the sponsors form a control group. When looking at whether the sponsors can access future contribution reductions or a withdrawal of surplus in meeting the asset definition for the plan as a whole the rights of the sponsors collectively should be considered.
- There is considerable case law in Canada addressing single sponsor plans and the ability of that sponsor to either withdraw surplus from the plan or take contribution holidays. Critical to assessing the ability of the sponsor to withdraw

Commented [LD13]: We discuss this access in detail a bit later on.
To consider flow and placement of support some more when drafting final report.
This thought is not quite well enough supported here.

Commented [LD14]: To Panel: In fleshing out the first section, I felt that these items did not fit well in the "nature of pension plans" section, so suggest moving them here as they relate to the recognition issues. However, would like feedback on whether this revised flow works or these should be moved back.

surplus or take contribution holidays is the plan text; clear rights within the plan text can support the sponsor's right to withdraw surplus or take contribution holidays. However, when the plan text is not clear, there may be legal uncertainties as to whether the sponsor "owns" the surplus. Withdrawal of surplus by the sponsor is generally subject to regulatory and legal hurdles, such as either approval by the Financial Services Commission of Ontario approval with a court order, an arbitration award or an agreement between employer and members for any surplus withdrawal. Therefore under case law it is generally considered that a sponsor does not have a legal right to withdraw a surplus until these hurdles have been passed, unless there is a clear right in the plan text.

- Conversely, if the plan text is not clear on the right of a sponsor to be able to reduce contribution, generally Canadian case law would support that the sponsor has the right and ability to utilize surplus through contribution holidays.
- An analysis of the plan documents for OTPP and OPSEU indicate that in both plans the sponsors negotiate and agree on contribution rates. This means that collectively the sponsors can exercise their shared control to reduce future contributions to the plan and access their portion of the economic resource in the form of future economic benefits. In the case of OTPP the government can benefit from the economic resource through the negotiation process over contributions required to make the actuarial valuation actuarially balanced. Similarly the government can benefit from any OPSEUPP asset through their ability to bargain their 50% of any actuarial gains.

- PS 3320 applies to contingent assets which are defined as "possible assets arising from existing conditions or situations involving uncertainty. That uncertainty will ultimately be resolved when one or more future events not wholly within the public sector entity's control occurs or fails to occur. Resolution of the uncertainty will confirm the existence or non-existence of an asset". The implication of a contingent asset is that it is not recognized in financial statements. An accrued benefit asset is not an uncertain economic resource. While there is measurement uncertainty regarding the measurement of an accrued benefit asset due to the necessity of making a number of assumptions regarding demographic and financial actuarial assumptions as well as fair values of plan assets, there is no uncertainty as to whether the plan exists, and therefore over the underlying existence of any estimated accrued benefit asset as an economic resource. PS 3320 notes that "The mere fact that an estimate of an amount is involved (measurement uncertainty) does not, in and of itself, constitute the type of uncertainty that characterizes a contingent asset". The extent of the economic resource become clear as measurement uncertainty is resolved, not as future events occur or fail to occur. As such, PS 3320 is not a

Commented [LD15]: Question for Murray – is this in the right place?
This sentence was in the bulleted draft, however, not clear whether this relates only to legal uncertainties over the surplus (i.e. withdrawal) or is a more general comment covering contribution holidays. If the latter then it should be moved somewhere else.

relevant source of guidance in considering whether an asset exists in respect of an accrued benefit asset.

Panel view

The accounting asset meets the definition of an economic resource because the accrued benefit asset exists and future benefit is available to the sponsors in accordance with the plan documents. There is no existence uncertainty regarding the net pension asset.

3) Definition of an asset - Control

- The definition of an asset under PSAS requires that an economic resource is controlled by a Government. PS 3210.16 expands on this control requirement noting that control exists when a government can benefit from economic resource, when they can deny or regulate access to the resource, and when they are exposed to risks associated with the economic resource.
- An accrued benefit asset in a joint defined benefit plan still meets the asset definition from the perspective of a joint sponsor as the joint sponsor is exposed to risks associated with the resource as they are exposed to risk of plan surplus changing from a change in actuarial assumptions. The government sponsor may also regulate access to the resource because joint control means that they must agree to any changes to the plan text or contractual arrangement and as such can deny the other sponsor access to the resource to the extent that joint decisions must be made over the use of the asset.
- As noted above in the case of OTPP and OPSEU the government can benefit from the economic resource.
- Shared control means that there is control, but that control over the plan as a whole is exercised through the joint sponsors as a control group. The contractual arrangements for OTPP and OPSEUPP set out how that joint control is exercised, including how surpluses and deficits are dealt with. In the context of PS 3250, the defined benefit guidance is to be applied to each plan, and then the members of control group each pick up their share. This shared control relationship contrasts with participating employers that are not part of the control group, as those employers do are not able to regulate or deny access to the plan assets and therefore cannot control access to the economic resource of a net plan asset.
- By definition, a joint sponsor of a JDBP does not have unilateral control or unilateral rights to the surplus of a JDBP. Instead there is an agreed upon, pre-determined process, with certainty that a conclusion on the use of any surplus

will be reached and with the expectation that the outcome of the process will be an equitable sharing of any surplus, as equitable sharing is a key characteristic of a JDBP.

- There are other examples in PSAS where joint control results in asset recognition. PS 3060 requires asset recognition for government business partnerships subject to shared control using the modified equity method. Similarly, PS 3060 requires proportionate consolidation for other government partnerships, which results in a government recognizing a proportionate share of the capital assets held under joint control, for example, even though the government cannot control the use of that asset unilaterally. If a jointly controlled asset cannot meet the recognition criteria for an asset then it would logically follow that no investments in government partnerships could be recognized. As it is, such assets are recognized by governments applying PSAS in their public account. The same logic that shared control can still result in asset recognition should apply to a pension asset of a JDBP.
- PS 3250 does require that there is an existing legally enforceable right to withdraw a surplus. This does not mean that there has to be a legally enforceable right to reduce contributions to the plan in the future in order to have control of the economic resource. Under pension law, withdrawal of pension surplus have different legal characteristics from contribution holidays. The former requires that assets already paid into a trust and for which no claim is clearly retained in the plan document, is reclaimed. The latter, which is also a form of economic benefit, requires that assets are not paid into a trust in the future and that the existing claim on those assets is not given up by the sponsor. This is a distinction established in law, and in the view of the Panel, the requirements of PS 3250 paragraph 59 are intended to be applied to the more complex legal context of surplus withdrawal, rather than a broader context of contribution holidays.

Panel view

Unilateral control is not a requirement for asset recognition. An asset subject to joint control can still be recognized under PSAS. The joint sponsors jointly control the net pension asset, and can recognize an asset relating to their portion of that jointly controlled asset.

Panel View - Recognition

PS 3250 requires the *recognition* of an asset for the government's portion of the plan surplus for both plans.

Those assets may require a valuation allowance. The measurement of those assets is addressed in the next section.

Measurement issues

Overview of guidance on measurement of an accrued benefit asset

- A primary source of GAAP should apply if it exists. PS 3250 paras 50-59 provides guidance on measuring any accrued benefit asset that results when the plan assets are measured at an amount greater than the accrued benefit obligation. As the guidance on defined benefit plans is applied to JDBPs prior to the government recognizing its portion of the plan, the valuation guidance should also be applied to the plan as a whole, prior to the joint sponsors recognizing their portion of the result.
- If applying the guidance in PS 3250 results in an amount of an accrued benefit asset for the plan after a valuation allowance has been applied, if necessary, then by definition this amount equates to the expected future benefit that the sponsors can access in the plan and would be eligible for asset recognition in the books of the joint sponsor.
- PS 3250 defines an accrued benefit asset as "the amount of any asset recognized on a government's statement of financial position in respect of employee retirement benefits before deducting any valuation allowance that may be required. It is the sum of the government's accumulated cash contributions less the sum of the current and prior years' benefit expenses (before any change in the valuation allowance)."
- Accrued benefit asset is adjusted for any net unamortized losses, if any, before testing for the valuation allowance to give the adjusted benefit asset. "Adjusted benefit asset is an accrued benefit asset less the amount, if any, by which the aggregate of any unamortized actuarial losses exceeds the aggregate of any unamortized actuarial gains." This is because the net unamortized losses will unwind automatically overtime based on the accounting model in PS 3250. No adjustment is made for net unamortized gains as these would only increase the accrued benefit asset. In the case of OTPP and OPSEUPP there are net unamortized gains, and so the accrued benefit asset equals the adjusted benefit asset.
- PS 3250 requires that the expected future benefit is compared to the adjusted benefit asset
- PS 3250 specifies how the expected future benefit is to be calculated:
  A government determines its expected future benefit as the sum of:
  a) the present value of its expected future accruals for service for the current number of active employees, less the present value of required employee

contributions and minimum contributions the government is required to make regardless of any surplus; and

b) the amount of the plan surplus that can be withdrawn in accordance with the existing plan and any applicable laws and regulations.

Commented [PM16]: Added indent

1) Impact of legally enforceable rights on calculation of expected future benefit amount

- PS 3250 uses the phrase "expected future benefits". This language indicates that future benefits only have to be expected, they do not have to be certain. Under the standard there are two ways that expected future benefits may be realized – through the withdrawal or surplus or through using the surplus to fund the expense of benefits earned by members in future period – that is, paying lower contributions into the plan in the future, often referred to as a "contribution holiday".
- The panel did not put any emphasis on expected future benefit arising from withdrawal of plan surplus, as the Provincial Government does not expect to benefit from surpluses through a withdrawal, and there is no explicit right for the sponsors to claim a withdrawal from the plans. In fact OPSEUPP explicitly states that the sponsors are not entitled to have any surplus paid out of the plan, and both OTPP and OPSEUPP plans state that upon wind up any surplus must be used to the benefit of members.
- PS 3250 paragraph 52 notes that the expected future benefits may be impacted if a government is not entitled to benefit fully from those expected future benefits or there are uncertainties as to the legal right to use a plan surplus. Such limitations might occur when there is an explicit restriction in the plan text that employers must always match the members' contributions, which might limit the government's entitlement to benefit fully from future reductions in contributions. However, in the OTPP there is no such restriction. The government match to members' contributions required by the Teachers' Pension Act is to a maximum of the members contributions. The current arrangement that the employers match a prior years' contribution level by members is by agreement of the joint sponsors and may be changed in the future as part of the negotiations to create an actuarially balanced funding valuation. Similarly, for OPSEUPP the plan text agreed to matching employer/member contributions, but this may also be changed through the exercise of shared control with the other joint sponsor.
- Ultimately, all the decisions regarding plan contributions and plan benefits rests with the joint sponsors and there are no legal uncertainties regarding the sponsors rights, as joint sponsors, to determine contribution and benefit levels. It is clearly laid out in the legal and contractual arrangements of both OTPP and OPSEUPP.

- PS 3250 paragraph 59 requires a legally enforceable right to exist before an expected future benefit can be recognized for a withdrawal or surplus. The Panel believes that these requirements apply specifically to the expected future benefits of paragraph 56 (b) and not to the amounts calculated in accordance with 56 (a) amounts. Each sentence, excluding the last sentence, in paragraph 59 refers to a withdrawal of assets from the plan. Legally speaking, and consistent with the plan texts of OPSEUPP a contribution holiday is not a withdrawal of surplus - these are two separate concepts.
- The last sentence in paragraph 59 does refer to changes in the allocation of surplus. OTPP and OPSEUPP existing plan documents govern the allocation of surplus or provide the process on to how to agree the allocation of surplus on an equitable basis. In the case of OTPP, there is no requirement to changes the existing allocation of surplus or the existing rights within the contractual arrangement in order for the government joint sponsor to use their existing rights under the shared control arrangement to negotiate an expected future benefit. In the case of OPSEUPP the surplus is allocated to each joint sponsor the form of their respective stabilization reserve pools

Panel View

- A joint sponsor does not ~~have to have~~require a unilateral legally enforceable right to reduce future contributions ~~to~~ and have an expected future benefit under paragraph 56 (a).

2) Calculation of the present value of expected future accruals for service for the current number of active employees

- PS 3250 provides further guidance on how to calculate the present value of expected future accruals for service for the current number of active employees.
- Under this guidance, this amount is determined on a basis consistent with the accrued benefit obligation. The calculation is based on an open group , which is the idea that the current number of employees will exist for perpetuity. This is generally recognized in practice as being an appropriate assumption for the application of this test under PSAS, unless there is an expected significant change in the number of members, for example because a plan is closed to new members or because of a planned restructuring. The panel is not aware of any such changes that are expected for either OTPP or OPSEUPP.
- The guidance notes, that in addition to the expected future accrual for service, the expected administrative and investment expenses to be paid out of the plan can been included, if they are not already taken into account in the expected return of assets rate.

- The Panel suggests that the Province might consider to what extent the expenses paid out of the plan could be added to the economic benefit.

Commented [PM17]: Panel View?

3) What are the "minimum contributions the government is required to make regardless of any surplus"

Commented [LD18]: Note – this analysis does not mention the FMP and funding zones etc.
Panel to advise if this should be added in anywhere and if so, where?

- The objective of the test in paragraph 56 (a) is to determine whether a sponsor will be able to obtain expected future benefit from an existing surplus, by reducing their contributions below the expected cost of benefits for future services provided under the plan.
- The purpose of the minimum contributions test is to determine whether there are requirements that would make a sponsor continue to contribution cash at a certain level, even when there are plan surpluses, and thus make it impossible for the sponsor to obtain a reduction in cash contributions to the plan.
- For a single sponsor plan, common practice in Canada under pension legislation is to consider that the sponsor can take a contribution holiday unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan. The Panel concludes that, following the guidance in PS 3250 that the plan is accounted for as a whole using the Defined Benefit guidance and then the government picks up its portion of the plan, a similar logic should apply to JDBPs – the joint sponsors can take a contribution holiday unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan.
- A question arises as to whether the surplus that is contemplated in the phrase "regardless of any surplus" is an accounting surplus or a funding surplus. The panel understands that in practice actuaries interpret this in practice to be funding surplus and not accounting surplus, and that if any contributions are required when there is a funding surplus these would be minimum contributions.
- There is also a question as to whether a joint sponsor can create a minimum contribution requirement on the other joint sponsor because shared control means that both sponsors must agree to any change in contribution levels, therefore absent any agreement the existing contribution levels are "fixed" and cannot be changed. However this view would not be consistent with the notion that the valuation allowance is being applied to the plan as a whole, with the joint sponsors able to collectively control the contribution levels under the plan arrangements. Equal reduced contributions for both members and employers benefit both joint sponsors

Commented [PM19]: Does it help clarify with a new bullet that addresses funding vs. accounting actuarial valuations? It is normal for a pension plan to build a surplus position that provides stability.

- It is relevant to note that as OTPP always requires an actuarially balanced valuation allowance to be filed, there is no funding surplus that arises, as any preliminary funding surplus must be dealt with through the negotiation process. A

funding surplus could arise prior to the filing of the next actuarially balanced funding valuation, as this must occur only once every three years. However, the joint sponsors can agree to file a funding valuation every year if they choose, to rebalance the contributions, reserves, and benefits of the plan. As the joint sponsors must agree on the contribution levels and make corresponding changes to the plan text if necessary, there are no “minimum contributions” that must be made, regardless of any surplus, as there is no minimum level of contributions that must be agreed upon by the joint sponsors. They can agree to any level of contributions as long as the result in actuarially balanced and so the level of surplus absolutely affects the contributions that are determined by this negotiation process. While it might be expected that some level of contributions will be made in the future to fund the benefits cost of future services, there is no method of determining under the contractual arrangements what this would be, given that the level is subject to negotiation and must be negotiated. As such the “minimum contributions” cannot be determined.

- Similarly, for OPSEUPP the stabilization reserves act as limit on the amount of funding surplus that accrued in the plan. Whether these stabilization reserves are used to reduce contributions or are maintained as a buffer is at the discretion of the joint sponsor. This is very similar to the ability that a single sponsor has to reduce contributions or maintain a reserve as a buffer for future changes in actuarial assumptions.

- The Panel noted that a number of calculations regarding the expected future benefit for both OTPP and OPSEU were made, based on different assumptions regarding what were the minimum contributions required under each plan. For example, scenarios included minimum contributions as the agreed upon contribution until the next mandatory negotiations in three years; minimum contributions as the currently agreed upon contributions for a longer period; and minimum contributions as the currently agreed upon contributions until certain limited on contributions under the Income Tax Act would be expected to ~~kick in~~become effective. These various views exist because the standard does not currently provide clear guidance on how to apply the definition of “minimum contributions regardless of any surplus”.

- If no expected future benefit to ~~Gov’t~~ Government sponsor, then is also no expected future benefit to joint sponsor. Does this make sense? Is this consistent with public expectations and expectations of the other sponsor?

Commented [PM20]: Not sure this is clear in saying that there is no minimum floor for pension plan contributions. i.e. amount can go to zero.

Commented [PM21]: Panel View?

Panel view - Measurement

- Based on the analysis of the plan arrangements for OTPP and OPSEUPP the level of minimum contributions required regardless of any surplus is lower than the present value of expected future accruals for service for the current number of active employees. All things being equal this creates headroom that could support the recognition of an amount in respect of the net pension asset of OTPP and OPSEUPP.
- Recommendations to province – be mindful that if have a funding surplus and have a legal requirement to continue to contribute could be minimum contributions.

Commented [PM22]: Sentence structure?

Recommendations to PSAB Employment Future Benefits Task Force

Commented [LD23]: These are currently in no particular order. Panel to advise as to ranking?

Application of guidance to Joint defined benefit plans

- The Panel notes that the standard is not clear on how the ability to access expected future benefits should be applied in the context of Joint Defined Benefit Plans. A clarification on how the guidance in PS 3250.81 should be applied (Interpretation A or Interpretation B) would be helpful.

Minimum contributions

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that funding valuations drive decision making over plan funding including contribution increases or reductions by sponsors. However, funding valuations may result in net pension assets or liability that are very different from the accounting net pension asset or liability. This results in a lack of clarity over whether minimum contributions may be made “regardless of any surplus” and whether a sponsor will be able to access an accounting surplus when the funding surplus is much smaller, or is a funding liability. There is some difficulty in determining what are minimum contributions in the context of joint DB plans when future contributions are dependent on the funded status of the plan and negotiation.

- For example, should the minimum contributions test be based on accounting surplus or funding surplus? Is it a present surplus or can it be a projected future surplus? Additional clarity on what constitutes a “minimum contribution” could increase consistency of application of this guidance for joint defined benefit plans [and single sponsor plans?].

Deferral accounting

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that the existing deferral provisions have the potential to result in an asset being recognized on financial statements when there is no underlying economic resource. Although this is not the case for either the OTPP or the OPSEUPP, this could occur when unamortized losses exist such that despite the the fair value of the plan assets being less than the estimated accrued benefit obligation, an accrued benefit asset could still be presented. This can be confusing to users of the financial statements as it is not transparent as to the underlying economic resource of the plan. Transparency is in the public interest. and transparency would suggest that it is important to recognize all liabilities or assets that exist and not to recognize assets where there is no underlying resource that gives rise to future economic benefit. Any mechanisms used to deal with potential income statement volatility concerns should ensure that these do not result in lack of transparency on the balance sheet. [Reference to IPSAS 39]

Discount rates

- The Panel supports PSAB examining discount rates for employment benefits. The Panel understand that in the public sector a sponsor borrowing rate is often used for unfunded plans and an asset return rate is used for funded plans. An appropriate asset return rate will vary depending on how assets are invested. The discount rates used by public sector entities may also be different then the discount rates used in the Plan’s own financial statements prepared under Part IV of the CPA Canada Handbook – Accounting, resulting in significant different measurements of accrued benefit obligations for the same plan in different financial statements. This inconsistency could be confusing to users.

  The Panel observes that many more recent accounting pronouncements relating to liability measurement require that the discount rate used to measure the liability capture the risks inherent in that liability. The panel suggests that the

Employment Benefit Task Force consider whether the method used to settle an obligation should affect how that obligation is measured and how the risks inherent in the obligation are best captured either in the discount rate or in other aspects of the measurement of the obligation.

Funding valuation

- As a funding valuation may result in a funding surplus or deficit that is very different than the accounting surplus or deficit this may be confusing to some users where both measures are presented in the same document.
- The Panel believes it may be beneficial to include additional discussion in a revised standard or other material about how the objectives and assumptions in funding valuations may differ from those used in the accounting valuation and why.
- The Panel suggests that a disclosure highlighting the quantitative differences in the funding valuation compared to the accounting valuation should be made in the financial statements of pension plans and/or in the financial statements of sponsors when information on the funding valuation of a plan is also made public or available to the same users of the financial statements. This would be useful to users as it would provide additional context for both the accounting and funding valuations.

Commented [PM24]: I am ok with disclosure of additional information. I do not wish to impose an accounting analysis to evaluation the differences between actuarial funding and accounting valuations.

Commented [LD25]:
Is this going to far?
Otherwise, have to think about how we highlight that this recommendation is to AcSB and not PSAB/Task force.

APPENDIX A – PENSION PLAN GOVERNING ARRANGEMENTS

OTPP

- The *Teachers' Pension Act*, R.S.O. 1990, c.T.1 (Link to the Teachers' Pension Act);
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The plan text for OTPP;
- An agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Minister of Education and Training and The Ontario Teachers' Federation represented by its Executive, dated July 15, 1991, as amended (The Partners' Agreement);
- A Funding Management Policy, attached as Appendix A to the Partners' Agreement (FMP).

OPSEU

- The Ontario Public Service Employees' Union Pension Act, 1994 S.O. 1994, c 17, s.143 Sched (Link to the Ontario Public Service Employees' Union Pension Act)
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The sponsorship agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Chair of the Management Board of Cabinet and the Ontario Public Service Employees' Union, dated April 18, 1994, as amended (The Sponsorship Agreement);
- The Agreement and Declaration of Trust of OPSEU Pension Plan Trust Fund, dated October 25, 1994, as amended (The Trust Agreement);
- The plan text for OPSEUPP;
- OP Trust Funding policy.

Appendix B - Accounting references

IPSASB 39. 67. A net defined benefit asset may arise where a defined benefit plan has been overfunded or where actuarial gains have arisen. An entity recognizes a net defined benefit asset in such cases because:

(a) The entity controls a resource, which is the ability to use the surplus to generate future benefits;

(b) That control is a result of past events (contributions paid by the entity and service rendered by the employee); and

(c) Future economic benefits are available to the entity in the form of a reduction in future contributions or a cash refund, either directly to the entity or indirectly to another plan in deficit. The asset ceiling is the present value of those future benefits

Appendix C

- Compare to BC and NB plans. Key differences here is that documents, including the contribution rates, can change if agreed upon by joint sponsors.

Commented [LD26]: Current parking lot – to be completed and refined .

Commented [NT27]: o/s need to understand why the AG referred to these – is there a concern that we need to address that we have not yet.

4 - PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v2 PMartin.docx

PENSION ASSET EXPERT ADVISORY PANEL

[DRAFT] REPORT

[NTD - o/s Cover letter? (including mandate summary)

Executive Summary]

Mandate of the Panel

- The Pension Asset Expert Advisory Panel (the Panel) was formed to address
  - o The requirement regarding control with respect to recognizing a pension asset for a joint defined benefit plan
  - o The requirement regarding control with respect to recognizing a pension asset for other pension plans
  - o Appropriate valuation techniques to measure a pension asset that take into consideration future decision making authority by plan sponsors
  - o Recommendations to the Employee Future Benefits Task Force of the Public Sector Accounting Board regarding issues that should be considered in its review of the retirement and post-employment benefits standards.

- Looked at recognition and measurement of pension assets arising in certain jointly sponsored pension plans (specifically, the Ontario Teachers' Pension Plan (OTPP) and the Ontario Public Service Employees' Union Pension Plan (OPSEUPP), collectively the "Plans") in accordance with Canadian public sector accounting standards (PSAS).

- The recognition and measurement of pension assets arising in other plans, ~~such as~~specifically the Healthcare of Ontario Pension Plan (HOOPP) and the Colleges of Applied Arts and Technology Pension Plan (CAATPP), will be covered in a later supplemental report that considers the different attributes of these plans

Nature of the pension plans examined

- Pension plans are not all alike. Each pension plan has distinct ~~contractual and other~~ arrangements that must be considered in assessing the accounting ~~for that plan~~.
- The relevant legislative acts and contractual arrangements governing the Plans that were considered by the Panel are listed in Appendix A.
- While the Provincial Government has the legislative ability to change the relevant Acts, it has also entered into contractual arrangement with the employee sponsor(s). For accounting purposes the existing contractual agreements are past transactions and are used for assessing existing rights and powers under the arrangements. Changes to the contractual arrangements (or a government's ability to set aside a contract using sovereign power) are not considered unless, or until, any such change were to become effective.
- Under pension legislation, there are several categories of defined benefit plans. Jointly sponsored pension plans are a separate category from single sponsor plans or multi-employer plans and have different regulatory requirements.
- ~~Similarly, u~~Under Public Sector Accounting Standards (PSAS) there are several categories of defined benefit plans, which include joint defined benefit pension plans (JDBPs) as a separate category from single sponsor or multi-employer plans.
- In JDBP's a government shares the risks and rewards of a defined benefit plan with plan participants, represented by a sponsor or sponsors. ~~The~~ A key characteristic of a JDBP is ~~that there is~~ a formal agreement between the sponsors which establishes~~d~~ ~~that the sponsors have~~ shared control over the plan. By definition, neither sponsor has unilateral control over the plan, as joint control (shared decision making) is an inherent requirement for a JDBP.
- Other characteristics of JDBPs include:
    - Funding contributions are shared mutually between the government and plan members
    - The sponsors have control over decisions related to the administration of the plan and the level of benefits and contributions on an ongoing basis based on the terms of the contractual agreement
    - The sponsors share, on an equitable basis, the significant risks associated with the benefit plan.

- ~~Historically,~~ OTPP was a single sponsored plan until 1992 when it was converted to be a jointly sponsored pension plan and ~~became~~ a joint defined benefit plan for accounting purposes. OPSEUPP was ~~carved~~ separated out of the Public Service

Pension Plan (a single sponsor plan) in 1995 and established as a jointly sponsored pension plan and joint defined benefit plan for accounting purposes.

- The motivation for making these changes was so the Provincial Government could transfer a share of the risks of the obligation to the members of the plans. In return for taking on a share of the risk of the obligation, the members received an equitable share of any surplus in the plan (both the upside and downside of plan performance are equitably shared) and the member Sponsors received the right to participate in shared control of the plan, meaning both parties to agree to significant plan decisions such as plan structure, benefits available under the plan, contribution rates, funding levels and other policy decisions.
- As both the funding risk and rewards and the governance of the plan are shared between the employer sponsor(s) and the employee sponsor(s) the move from a single sponsored plan to a jointly sponsored plan was considered to be an equitable basis ~~fair deal~~ for both sides ~~while achieving a public policy aim or reducing the risk of the obligation to the Provincial Government~~.

- ~~The~~ A fundamental difference between single sponsor defined benefit plans and joint sponsor defined benefit plans is that the control that a single sponsor would have over setting contribution rates and benefits. Plan oversight has been replaced with joint control over those decision. The sharing of the risks and rewards of the pension plan on an equitable basis is consistent with the sharing of control over those policies that influence the outcomes of the pension plan.

OTPP – Structure and organization

Sponsors

- The OTPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Minister of Education and Training) as the employer Sponsor and the Ontario Teachers' Federation (represented by its Executive) as the employee Sponsor.
- The partnership agreement between the joint sponsors sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OTPP is also a multi-employer plan, but these employers are not sponsors.

Decision making

- The OTPP Board is appointed by the joint sponsors and is responsible for the administration of the pension plan, such as investment of assets, payment of benefits, preparation of pension valuations and managing the pension fund.

Commented [LD1]: This was the language in my notes, but perhaps there is a better way of phrasing this?

- The Board does not make any fundamental decisions regarding benefits and contributions as these decisions rest with the joint sponsors' Partners Committee, to which an equal number of representatives are appointed by each sponsor.

Funding arrangements

- The basic funding arrangement in the Teachers' Pension Act is that the employers' contributions shall not exceed those of the members.
- Historically, the Employers have matched the members' contributions, based on the members' contributions in a previous year. This has results in contributions being made typically on a 50:50 basis between employers and members (except where specifically agreed otherwise).
- The contractual arrangements require that an actuarial valuation for funding purposes is prepared at least once every three years to comply with the *Pension Benefits Act*. This actuarial valuation is required to actuarially balanced – meaning that the benefits and costs to be paid from the fund plus any contingency reserve equals the present value of the members and employers contributions and special payments. A preliminary valuation is prepared based on the existing terms of the plan but to the extent that this preliminary valuation is not actuarially balanced the joint sponsors must negotiate and agree what changes to the plan must be made in order to reach an actuarially balanced valuation that will be filed. This process means there is no funding surplus or deficit in the final funding valuation.
- The changes to the plan agreed upon by the joint sponsors could be to increase or decrease contributions for employers and/or members or to improve benefits payable to members. Negotiation must be made in good faith and if an agreement is not reached within a certain time frame a mediator may be appointed by the joint sponsors, and, if necessary a board of arbitration.
- The joint sponsors have agreed to a Funding Management Policy (FMP) which, although not binding, sets a framework for the sponsors to negotiate the use of any funding surpluses or deficits. The FMP clearly indicates that above a certain funding range the sponsors can negotiate to lower contributions or provide temporary or permanent benefit enhancements.
- The OTPP plan text does not limit the outcomes of the negotiation between the joint sponsors. There is no minimum level or fixed range of contributions by members or employers that cannot be changed through the required negotiations.

Commented [LD2]: Note, it is actually the "year before the preceeding year" to two years previous. Did not think it necessary to get into this detail, but it is why it says "a" previous year not "the" previous year.

Commented [PM3]: ??????

Commented [PM4]: An outcome is always achieved. T

OPSEUPP – Structure and organization

Sponsors

- The OPSEUPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Chair of the management Board of Cabinet) as the employer Sponsor and the Ontario Public Service Employees' Union as the employee Sponsor.
- The joint sponsors established a trust (OP Trust) and the declaration of trust between the joint sponsors and the trustees of OP Trust sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OPSEUPP is also a multi-employer plan, but these employers are not sponsors.

Commented [LD5]: Confirm this is correct. Sponsor agreement states it is a single employer plan, but other parts of the plan text indicates that it is multi employer with crown corps etc.

Decision making

- The Trustee Board administers the plan and an equal number of trustees are appointed by each of the Provincial Government and OPSEU.
- The Trustee Board votes on resolutions by majority vote. This means that trustees representing both the Provincial Government and OPSEU must agree. In the case of a deadlock there are agreed upon procedures to determine a temporary 11th trustee, as agreed by both the sponsors (or, if necessary, appointed by the Chief Justice of Ontario).

Commented [LD6]: I'm not clear on whether this is an administrative Board or a representative Board – please advise.

- The trustees are responsible for the administration of the OPSEUPP including the investment of assets, payments of benefits, receipt of contributions, preparation and filing of actuarial valuations in accordance with the Pension Benefits Act
- The trustees have no power to amend the plan or the trust agreement. All decisions regarding contribution levels and benefits to be provided under the plan are the responsibility of the sponsors
- Amendments to the trust agreement, plan text and sponsorship agreement require unanimous written consent of the sponsors.

Commented [PM7]: Different font showing up here?

Funding arrangements

Commented [LD8]: Panel to confirm this is an appropriate summary

- The basic funding arrangement in the OPSEUPP text is that employers match the contributions of the members.
- Funding zone agreements
- Limits (or lack thereof) on negotiation of contributions set by plan text

Commented [PM9]: What are we trying to say here?

Commented [PM10]: Not clear?

- The plan text clearly states that no amount of surplus shall be paid out of the plan to the Provincial Government or any participating employer.
- ~~However, it is also clear that c~~Contribution reductions are not considered to be a pay out of surplus.
- Any net actuarial gains that arise (after funding certain specific transitional liabilities) are to be used equally for the benefit of employers and OPSEU. Specifically, 50% of the gain may be collectively bargained and used to the benefit of the employers, and 50% of the gain may be collectively bargained and used for the benefit of plan members. There are no restrictions on how each party bargains the use of their surplus. There is no minimum level or fixed range of contributions by members or employers that cannot be changed by agreement of the joint sponsors or through the use of their respective surplus portions.

Commented [LD11]: Check wording against plan text – o/s to find reference.

Panel view

Both OTPP and OPSEUPP have been accounted for as joint defined benefit plans in the Public Accounts of Ontario accordance with PS 3250 since that standard was issued in 2001.

The panel agrees with the accounting classification of both plans as joint defined benefit plans.

Determination of relevant accounting guidance

- The accounting analysis is performed under Public Sector Accounting Principles (PSAS) as issued by the Canadian Public Sector Accounting Board.
- PSAS provides sources of guidance in determining appropriate accounting principles in PS 1150. First must follow any specific standard that relates to the issue under consideration (apply every source of primary Generally Accepted Accounting Principles (GAAP)). In this case, PS 3250, *Retirement benefits* is a standard that relates to the accounting for defined benefit pension plans. Further, PS 3250 also defines and contains guidance specifically on joint defined benefit plans.
- If a primary GAAP source, such as PS 3250, is not clear whether the government would develop an accounting policy considering other standards within PSAS and Section 1000, *Financial Statement Concepts*.
- A government may also refer to accounting guidance in other GAAP frameworks as long as consistent with PSAS standards and Section 1000 above.

Panel View

- The Panel considered the guidance in PS 3250.
- In addition, the panel noted that there were some areas where PS 3250 is not clear with respect to how the guidance in PS 3250 applies to JDBPs. In these cases the panel referred to relevant other guidance, as identified in the analysis below.

Recognition issues

1) Application of Defined Benefit accounting to Joint Defined Benefit Plans

- PS 3250 Paragraph 81states "When a government participates in a joint defined benefit plan, the government's risk is limited to its portion of the plan. The government should account for its portion of the plan in accordance with the standards for defined benefit plans".
- The panel discussed two possible interpretations of how this guidance is to be applied to JDBPs:
  - Interpretation A) Divide the plan between the sponsors' respective portion, and the government applies the guidance on Defined Benefit plans in PS 3250 only to their portion;
  - Interpretation B) The government applies the Defined Benefit guidance in PS 3250 to the plan as a whole ~~using~~ and then recognizes only its portion of the plan in its financial statements
- The interpretation of this paragraph affects the perspective through which the asset recognition guidance in PSAS and the guidance on defined benefit plans in PS 3250 is applied (to the plan or the government's portion of the plan).
- For example, under interpretation A, dividing the plan first would entail measuring plan assets at the government's share, determining the accrued benefit obligation at the government's share and then applying the valuation allowance to any net accrued benefit asset that arises.
- Under interpretation B, the assets and accrued benefit obligation amounts for the whole plan are measured in accordance with PS 3250. The valuation allowance guidance is applied to any accrued benefit asset that arises on the plan as a whole. The government then calculates its portion of the accrued benefit asset, net of any valuation allowance in determining the amount of asset to recognize in the Public Accounts.

- Interpretation B is, in the view of the Panel, a more appropriate answer because it aligns most closely with the concepts of Defined Benefit accounting in PS 3250 and with the economic substance of joint defined benefit plan arrangements.
  - Defined Benefit plan accounting in Financial Statements is based on a *net* amount of plan assets less accrued benefit obligations. Rather than presenting plan assets as "Assets" of the government and plan liabilities as "Liabilities" of the government, these are presented as a net asset or liability, which reflects that the plan is a separate entity. This accounting is more similar to an "equity method" of accounting which reflects the sponsor's interest in the net assets (or net liability) of a plan than to a proportionate consolidation accounting. Therefore, it ~~similarly~~ is appropriate to calculate the net assets (or liabilities) in the plan in accordance with accounting standards before determining the sponsor's portion of the plan.
  - The fundamental difference between a single sponsor plan and a joint defined benefit plan is in the latter, control is shared and a sponsor has only a portion of the risks and rewards. It would be consistent to calculate the plan net asset or net liability in the same manner as for single sponsor plan – on a whole plan basis – before accounting for the shared control distinction by determining what is the government's portion that net asset or net liability.
  - The contractual arrangements between the Sponsors affect the plan as a whole because there is joint control over the plan as a whole and not unilateral control by each sponsor over their portion of the plan. For example, there is one funding policy, one Partners' agreement (OTPP) or sponsorship agreement (OPSEUPP), one plan text and so on that govern the respective plans. A determination of the assets and the liabilities can only be made with reference to the plan as a whole. Therefore, it also follows that other aspects of the guidance for accounting for defined benefit plans, such as the valuation allowance guidance, should be applied to the plan as a whole prior to determining a government's portion. This may be particularly important when the portion is determined on an equitable basis, but not necessarily an equal (50:50) basis
  - An important characteristic of JDBPs is that there is an equitable sharing of the plan which applies to both risks and rewards and is the underlying business rationale for a JDBP. It would not be an equitable sharing for a sponsor to have only an obligation for a net liability without any access to a net asset position. One of the implications of Interpretation A is that the sponsors might recognize a liability for their portion of a net liability but be unable to recognize an asset for their portion of a net asset. In the view of

Commented [PM12]: Panel View. Do we need to separate this under such a heading?

the Panel would not faithfully represent the underlying risks and rewards of the arrangement.

  - The Panel believes that if the PSAB had intended joint defined benefit plans to apply the valuation allowance guidance for defined benefit plan accounting only to a portion of the plan they would have provided additional guidance as to how this should be performed.

Application to OTPP and OPSEPP

- The OTPP plan states that the risks [and rewards] are shared between employers and members on an equitable basis, which has historically been on a 50:50 when considered over the long term.
- The OPSEUPP plan indicates that any actuarial gains are allocated to the employers and members on a 50:50 basis and then this portion may be utilized by that party as they determine over time. This means that members and employers could utilize their gains at different times, as historically has been the case. This means that the portion of any net asset that relates to the government's share may fluctuate as a percentage of the total net asset balance and may not result in the government having a 50% portion of the net asset at any one time.

Panel View

The Panel believes it is appropriate to apply all aspects of the guidance for accounting for defined benefit plans in PS 3250 to a JDBP prior to determining the government's portion of that plan for recognition within the financial statements.

2) Definition of an asset – Is there an economic resource

- Under PSAS, ~~an~~ assets are defined as "economic resources controlled by a government as a result of past transactions or events and from which future economic benefits are expected to be obtained".
- The resource in question is the accounting accrued benefit asset that arises from applying the accounting guidance in measuring plan assets and the accrued benefit obligation, including the provisions regarding the deferral of unamortized gains or losses. The accrued benefit asset may be very different from any funding surplus calculated under an actuarial valuation performed for funding purposes. Funding valuations ~~may~~ use different actuarial methods and assumptions, such as a provision for adverse deviations. However, under

accounting standards it represents the best estimate of the accrued benefit obligation and the fair value of the plan assets, as adjusted for the permitted deferral provisions. Notwithstanding there is a degree of measurement uncertainty regarding both the measurement of the plan assets and the accrued benefit obligation, PS 3250 – the primary source of GAAP for retirement benefit plans – clearly requires that such an asset is recognized for a single sponsored plans. Consistent with the discussion in 1) above, for JDBP plans these requirements are still applicable and this asset should be considered in the context of the plan as a whole, prior to determining what portion of the asset (if any) is the government's share.

- The recognition of an accrued benefit asset for accounting purposes is then subject to the measurement provisions of the valuation allowance guidance (See section on "Measurement" below).

- In addition to the requirement of PS 3250 to recognize an accrued benefit asset, the Panel also noted the following guidance indicates that an accrued benefit asset in a JDBP represents an economic resource that gives rise to future economic benefits:
    - PSAS provides additional guidance on economic resources and future economic benefits in PS 3210, *Assets,* which is effective from April 1, 2017. An economic resource embodies value because it enables an entity to meet its objectives, such as the provision of public goods and services, redistribution of wealth, generation of cash inflows or reduction of cash outflows. An accrued benefit asset in a pension plan is a resource because it can be used to generate future benefits. This view is confirmed by guidance in IPSASB 39.67
    - The economic resource (plan surplus for accounting purposes) can provide future economic benefits to the joint sponsors in the form of a reduction of cash outflows in the future because it can be used to reduce future contributions, as long as the sponsors are expected to be able to access those future contribution reductions (3210.04(a)). This view is confirmed by guidance in IPSASB 39.67
- In a joint defined benefit plan, the sponsors form a control group. When looking at whether the sponsors can access future contribution reductions or a withdrawal of surplus in meeting the asset definition for the plan as a whole the rights of the sponsors collectively should be considered.
- There is considerable case law in Canada addressing single sponsor plans and the ability of that sponsor to either withdraw surplus from the plan or take contribution holidays. Critical to assessing the ability of the sponsor to withdraw

Commented [LD13]: We discuss this access in detail a bit later on.
To consider flow and placement of support some more when drafting final report.
This thought is not quite well enough supported here.

Commented [LD14]: To Panel: In fleshing out the first section, I felt that these items did not fit well in the "nature of pension plans" section, so suggest moving them here as they relate to the recognition issues. However, would like feedback on whether this revised flow works or these should be moved back.

surplus or take contribution holidays is the plan text; clear rights within the plan text can support the sponsor's right to withdraw surplus or take contribution holidays. However, when the plan text is not clear, there may be legal uncertainties as to whether the sponsor "owns" the surplus. Withdrawal of surplus by the sponsor is generally subject to regulatory and legal hurdles, such as either approval by the Financial Services Commission of Ontario approval with a court order, an arbitration award or an agreement between employer and members for any surplus withdrawal. Therefore under case law it is generally considered that a sponsor does not have a legal right to withdraw a surplus until these hurdles have been passed, unless there is a clear right in the plan text.

- Conversely, if the plan text is not clear on the right of a sponsor to be able to reduce contribution, generally Canadian case law would support that the sponsor has the right and ability to utilize surplus through contribution holidays.
- An analysis of the plan documents for OTPP and OPSEU indicate that in both plans the sponsors negotiate and agree on contribution rates. This means that collectively the sponsors can exercise their shared control to reduce future contributions to the plan and access their portion of the economic resource in the form of future economic benefits. In the case of OTPP the government can benefit from the economic resource through the negotiation process over contributions required to make the actuarial valuation actuarially balanced. Similarly the government can benefit from any OPSEUPP asset through their ability to bargain their 50% of any actuarial gains.

- PS 3320 applies to contingent assets which are defined as "possible assets arising from existing conditions or situations involving uncertainty. That uncertainty will ultimately be resolved when one or more future events not wholly within the public sector entity's control occurs or fails to occur. Resolution of the uncertainty will confirm the existence or non-existence of an asset". The implication of a contingent asset is that it is not recognized in financial statements. An accrued benefit asset is not an uncertain economic resource. While there is measurement uncertainty regarding the measurement of an accrued benefit asset due to the necessity of making a number of assumptions regarding demographic and financial actuarial assumptions as well as fair values of plan assets, there is no uncertainty as to whether the plan exists, and therefore over the underlying existence of any estimated accrued benefit asset as an economic resource. PS 3320 notes that "The mere fact that an estimate of an amount is involved (measurement uncertainty) does not, in and of itself, constitute the type of uncertainty that characterizes a contingent asset". The extent of the economic resource become clear as measurement uncertainty is resolved, not as future events occur or fail to occur. As such, PS 3320 is not a

Commented [LD15]: Question for Murray – is this in the right place?
This sentence was in the bulleted draft, however, not clear whether this relates only to legal uncertainties over the surplus (i.e. withdrawal) or is a more general comment covering contribution holidays. If the latter then it should be moved somewhere else.

relevant source of guidance in considering whether an asset exists in respect of an accrued benefit asset.

Panel view

The accounting asset meets the definition of an economic resource because the accrued benefit asset exists and future benefit is available to the sponsors in accordance with the plan documents. There is no existence uncertainty regarding the net pension asset.

3) Definition of an asset - Control

- The definition of an asset under PSAS requires that an economic resource is controlled by a Government. PS 3210.16 expands on this control requirement noting that control exists when a government can benefit from economic resource, when they can deny or regulate access to the resource, and when they are exposed to risks associated with the economic resource.
- An accrued benefit asset in a joint defined benefit plan still meets the asset definition from the perspective of a joint sponsor as the joint sponsor is exposed to risks associated with the resource as they are exposed to risk of plan surplus changing from a change in actuarial assumptions. The government sponsor may also regulate access to the resource because joint control means that they must agree to any changes to the plan text or contractual arrangement and as such can deny the other sponsor access to the resource to the extent that joint decisions must be made over the use of the asset.
- As noted above in the case of OTPP and OPSEU the government can benefit from the economic resource.
- Shared control means that there is control, but that control over the plan as a whole is exercised through the joint sponsors as a control group. The contractual arrangements for OTPP and OPSEUPP set out how that joint control is exercised, including how surpluses and deficits are dealt with. In the context of PS 3250, the defined benefit guidance is to be applied to each plan, and then the members of control group each pick up their share. This shared control relationship contrasts with participating employers that are not part of the control group, as those employers do are not able to regulate or deny access to the plan assets and therefore cannot control access to the economic resource of a net plan asset.
- By definition, a joint sponsor of a JDBP does not have unilateral control or unilateral rights to the surplus of a JDBP. Instead there is an agreed upon, pre-determined process, with certainty that a conclusion on the use of any surplus

will be reached and with the expectation that the outcome of the process will be an equitable sharing of any surplus, as equitable sharing is a key characteristic of a JDBP.

- There are other examples in PSAS where joint control results in asset recognition. PS 3060 requires asset recognition for government business partnerships subject to shared control using the modified equity method. Similarly, PS 3060 requires proportionate consolidation for other government partnerships, which results in a government recognizing a proportionate share of the capital assets held under joint control, for example, even though the government cannot control the use of that asset unilaterally. If a jointly controlled asset cannot meet the recognition criteria for an asset then it would logically follow that no investments in government partnerships could be recognized. As it is, such assets are recognized by governments applying PSAS in their public account. The same logic that shared control can still result in asset recognition should apply to a pension asset of a JDBP.
- PS 3250 does require that there is an existing legally enforceable right to withdraw a surplus. This does not mean that there has to be a legally enforceable right to reduce contributions to the plan in the future in order to have control of the economic resource. Under pension law, withdrawal of pension surplus have different legal characteristics from contribution holidays. The former requires that assets already paid into a trust and for which no claim is clearly retained in the plan document, is reclaimed. The latter, which is also a form of economic benefit, requires that assets are not paid into a trust in the future and that the existing claim on those assets is not given up by the sponsor. This is a distinction established in law, and in the view of the Panel, the requirements of PS 3250 paragraph 59 are intended to be applied to the more complex legal context of surplus withdrawal, rather than a broader context of contribution holidays.

Panel view

Unilateral control is not a requirement for asset recognition. An asset subject to joint control can still be recognized under PSAS. The joint sponsors jointly control the net pension asset, and can recognize an asset relating to their portion of that jointly controlled asset.

Panel View - Recognition

PS 3250 requires the *recognition* of an asset for the government's portion of the plan surplus for both plans.

Those assets may require a valuation allowance. The measurement of those assets is addressed in the next section.

Measurement issues

Overview of guidance on measurement of an accrued benefit asset

- A primary source of GAAP should apply if it exists. PS 3250 paras 50-59 provides guidance on measuring any accrued benefit asset that results when the plan assets are measured at an amount greater than the accrued benefit obligation. As the guidance on defined benefit plans is applied to JDBPs prior to the government recognizing its portion of the plan, the valuation guidance should also be applied to the plan as a whole, prior to the joint sponsors recognizing their portion of the result.
- If applying the guidance in PS 3250 results in an amount of an accrued benefit asset for the plan after a valuation allowance has been applied, if necessary, then by definition this amount equates to the expected future benefit that the sponsors can access in the plan and would be eligible for asset recognition in the books of the joint sponsor.
- PS 3250 defines an accrued benefit asset as “the amount of any asset recognized on a government's statement of financial position in respect of employee retirement benefits before deducting any valuation allowance that may be required. It is the sum of the government's accumulated cash contributions less the sum of the current and prior years' benefit expenses (before any change in the valuation allowance).”
- Accrued benefit asset is adjusted for any net unamortized losses, if any, before testing for the valuation allowance to give the adjusted benefit asset. “Adjusted benefit asset is an accrued benefit asset less the amount, if any, by which the aggregate of any unamortized actuarial losses exceeds the aggregate of any unamortized actuarial gains.” This is because the net unamortized losses will unwind automatically overtime based on the accounting model in PS 3250. No adjustment is made for net unamortized gains as these would only increase the accrued benefit asset. In the case of OTPP and OPSEUPP there are net unamortized gains, and so the accrued benefit asset equals the adjusted benefit asset.
- PS 3250 requires that the expected future benefit is compared to the adjusted benefit asset
- PS 3250 specifies how the expected future benefit is to be calculated:
  A government determines its expected future benefit as the sum of:
  a) the present value of its expected future accruals for service for the current number of active employees, less the present value of required employee

contributions and minimum contributions the government is required to make regardless of any surplus; and

b) the amount of the plan surplus that can be withdrawn in accordance with the existing plan and any applicable laws and regulations.

Commented [PM16]: Added indent

1) Impact of legally enforceable rights on calculation of expected future benefit amount

- PS 3250 uses the phrase “expected future benefits”. This language indicates that future benefits only have to be expected, they do not have to be certain. Under the standard there are two ways that expected future benefits may be realized – through the withdrawal or surplus or through using the surplus to fund the expense of benefits earned by members in future period – that is, paying lower contributions into the plan in the future, often referred to as a “contribution holiday”.
- The panel did not put any emphasis on expected future benefit arising from withdrawal of plan surplus, as the Provincial Government does not expect to benefit from surpluses through a withdrawal, and there is no explicit right for the sponsors to claim a withdrawal from the plans. In fact OPSEUPP explicitly states that the sponsors are not entitled to have any surplus paid out of the plan, and both OTPP and OPSEUPP plans state that upon wind up any surplus must be used to the benefit of members.
- PS 3250 paragraph 52 notes that the expected future benefits may be impacted if a government is not entitled to benefit fully from those expected future benefits or there are uncertainties as to the legal right to use a plan surplus. Such limitations might occur when there is an explicit restriction in the plan text that employers must always match the members’ contributions, which might limit the government’s entitlement to benefit fully from future reductions in contributions. However, in the OTPP there is no such restriction. The government match to members’ contributions required by the Teachers’ Pension Act is to a maximum of the members contributions. The current arrangement that the employers match a prior years’ contribution level by members is by agreement of the joint sponsors and may be changed in the future as part of the negotiations to create an actuarially balanced funding valuation. Similarly, for OPSEUPP the plan text agreed to matching employer/member contributions, but this may also be changed through the exercise of shared control with the other joint sponsor.
- Ultimately, all the decisions regarding plan contributions and plan benefits rests with the joint sponsors and there are no legal uncertainties regarding the sponsors rights, as joint sponsors, to determine contribution and benefit levels. It is clearly laid out in the legal and contractual arrangements of both OTPP and OPSEUPP.

- PS 3250 paragraph 59 requires a legally enforceable right to exist before an expected future benefit can be recognized for a withdrawal or surplus. The Panel believes that these requirements apply specifically to the expected future benefits of paragraph 56 (b) and not to the amounts calculated in accordance with 56 (a) amounts. Each sentence, excluding the last sentence, in paragraph 59 refers to a withdrawal of assets from the plan. Legally speaking, and consistent with the plan texts of OPSEUPP a contribution holiday is not a withdrawal of surplus - these are two separate concepts.
- The last sentence in paragraph 59 does refer to changes in the allocation of surplus. OTPP and OPSEUPP existing plan documents govern the allocation of surplus or provide the process on to how to agree the allocation of surplus on an equitable basis. In the case of OTPP, there is no requirement to changes the existing allocation of surplus or the existing rights within the contractual arrangement in order for the government joint sponsor to use their existing rights under the shared control arrangement to negotiate an expected future benefit. In the case of OPSEUPP the surplus is allocated to each joint sponsor the form of their respective stabilization reserve pools

Panel View

- A joint sponsor does not ~~have to have~~require a unilateral legally enforceable right to reduce future contributions ~~to~~ and have an expected future benefit under paragraph 56 (a).

2) Calculation of the present value of expected future accruals for service for the current number of active employees

- PS 3250 provides further guidance on how to calculate the present value of expected future accruals for service for the current number of active employees.
- Under this guidance, this amount is determined on a basis consistent with the accrued benefit obligation. The calculation is based on an open group , which is the idea that the current number of employees will exist for perpetuity. This is generally recognized in practice as being an appropriate assumption for the application of this test under PSAS, unless there is an expected significant change in the number of members, for example because a plan is closed to new members or because of a planned restructuring. The panel is not aware of any such changes that are expected for either OTPP or OPSEUPP.
- The guidance notes, that in addition to the expected future accrual for service, the expected administrative and investment expenses to be paid out of the plan can been included, if they are not already taken into account in the expected return of assets rate.

- The Panel suggests that the Province might consider to what extent the expenses paid out of the plan could be added to the economic benefit.

Commented [PM17]: Panel View?

3) What are the "minimum contributions the government is required to make regardless of any surplus"

Commented [LD18]: Note – this analysis does not mention the FMP and funding zones etc.
Panel to advise if this should be added in anywhere and if so, where?

- The objective of the test in paragraph 56 (a) is to determine whether a sponsor will be able to obtain expected future benefit from an existing surplus, by reducing their contributions below the expected cost of benefits for future services provided under the plan.
- The purpose of the minimum contributions test is to determine whether there are requirements that would make a sponsor continue to contribution cash at a certain level, even when there are plan surpluses, and thus make it impossible for the sponsor to obtain a reduction in cash contributions to the plan.
- For a single sponsor plan, common practice in Canada under pension legislation is to consider that the sponsor can take a contribution holiday unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan. The Panel concludes that, following the guidance in PS 3250 that the plan is accounted for as a whole using the Defined Benefit guidance and then the government picks up its portion of the plan, a similar logic should apply to JDBPs – the joint sponsors can take a contribution holiday unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan.
- A question arises as to whether the surplus that is contemplated in the phrase "regardless of any surplus" is an accounting surplus or a funding surplus. The panel understands that in practice actuaries interpret this in practice to be funding surplus and not accounting surplus, and that if any contributions are required when there is a funding surplus these would be minimum contributions.
- There is also a question as to whether a joint sponsor can create a minimum contribution requirement on the other joint sponsor because shared control means that both sponsors must agree to any change in contribution levels, therefore absent any agreement the existing contribution levels are "fixed" and cannot be changed. However this view would not be consistent with the notion that the valuation allowance is being applied to the plan as a whole, with the joint sponsors able to collectively control the contribution levels under the plan arrangements. Equal reduced contributions for both members and employers benefit both joint sponsors

Commented [PM19]: Does it help clarify with a new bullet that addresses funding vs. accounting actuarial valuations? It is normal for a pension plan to build a surplus position that provides stability.

- It is relevant to note that as OTPP always requires an actuarially balanced valuation allowance to be filed, there is no funding surplus that arises, as any preliminary funding surplus must be dealt with through the negotiation process. A

funding surplus could arise prior to the filing of the next actuarially balanced funding valuation, as this must occur only once every three years. However, the joint sponsors can agree to file a funding valuation every year if they choose, to rebalance the contributions, reserves, and benefits of the plan. As the joint sponsors must agree on the contribution levels and make corresponding changes to the plan text if necessary, there are no "minimum contributions" that must be made, regardless of any surplus, as there is no minimum level of contributions that must be agreed upon by the joint sponsors. They can agree to any level of contributions as long as the result in actuarially balanced and so the level of surplus absolutely affects the contributions that are determined by this negotiation process. While it might be expected that some level of contributions will be made in the future to fund the benefits cost of future services, there is no method of determining under the contractual arrangements what this would be, given that the level is subject to negotiation and must be negotiated. As such the "minimum contributions" cannot be determined.

- Similarly, for OPSEUPP the stabilization reserves act as limit on the amount of funding surplus that accrued in the plan. Whether these stabilization reserves are used to reduce contributions or are maintained as a buffer is at the discretion of the joint sponsor. This is very similar to the ability that a single sponsor has to reduce contributions or maintain a reserve as a buffer for future changes in actuarial assumptions.

- The Panel noted that a number of calculations regarding the expected future benefit for both OTPP and OPSEU were made, based on different assumptions regarding what were the minimum contributions required under each plan. For example, scenarios included minimum contributions as the agreed upon contribution until the next mandatory negotiations in three years; minimum contributions as the currently agreed upon contributions for a longer period; and minimum contributions as the currently agreed upon contributions until certain limited on contributions under the Income Tax Act would be expected to ~~kick in~~become effective. These various views exist because the standard does not currently provide clear guidance on how to apply the definition of "minimum contributions regardless of any surplus".

- If no expected future benefit to ~~Gov't~~ Government sponsor, then is also no expected future benefit to joint sponsor. Does this make sense? Is this consistent with public expectations and expectations of the other sponsor?

Commented [PM20]: Not sure this is clear in saying that there is no minimum floor for pension plan contributions. i.e. amount can go to zero.

Commented [PM21]: Panel View?

Panel view - Measurement

- Based on the analysis of the plan arrangements for OTPP and OPSEUPP the level of minimum contributions required regardless of any surplus is lower than the present value of expected future accruals for service for the current number of active employees. All things being equal this creates headroom that could support the recognition of an amount in respect of the net pension asset of OTPP and OPSEUPP.
- Recommendations to province – be mindful that if have a funding surplus and have a legal requirement to continue to contribute could be minimum contributions.

Commented [PM22]: Sentence structure?

Recommendations to PSAB Employment Future Benefits Task Force

Commented [LD23]: These are currently in no particular order. Panel to advise as to ranking?

Application of guidance to Joint defined benefit plans

- The Panel notes that the standard is not clear on how the ability to access expected future benefits should be applied in the context of Joint Defined Benefit Plans. A clarification on how the guidance in PS 3250.81 should be applied (Interpretation A or Interpretation B) would be helpful.

Minimum contributions

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that funding valuations drive decision making over plan funding including contribution increases or reductions by sponsors. However, funding valuations may result in net pension assets or liability that are very different from the accounting net pension asset or liability. This results in a lack of clarity over whether minimum contributions may be made "regardless of any surplus" and whether a sponsor will be able to access an accounting surplus when the funding surplus is much smaller, or is a funding liability. There is some difficulty in determining what are minimum contributions in the context of joint DB plans when future contributions are dependent on the funded status of the plan and negotiation.

- For example, should the minimum contributions test be based on accounting surplus or funding surplus? Is it a present surplus or can it be a projected future surplus? Additional clarity on what constitutes a “minimum contribution” could increase consistency of application of this guidance for joint defined benefit plans [and single sponsor plans?].

Deferral accounting

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that the existing deferral provisions have the potential to result in an asset being recognized on financial statements when there is no underlying economic resource. Although this is not the case for either the OTPP or the OPSEUPP, this could occur when unamortized losses exist such that despite the the fair value of the plan assets being less than the estimated accrued benefit obligation, an accrued benefit asset could still be presented. This can be confusing to users of the financial statements as it is not transparent as to the underlying economic resource of the plan. Transparency is in the public interest. and transparency would suggest that it is important to recognize all liabilities or assets that exist and not to recognize assets where there is no underlying resource that gives rise to future economic benefit. Any mechanisms used to deal with potential income statement volatility concerns should ensure that these do not result in lack of transparency on the balance sheet. [Reference to IPSAS 39]

Discount rates

- The Panel supports PSAB examining discount rates for employment benefits. The Panel understand that in the public sector a sponsor borrowing rate is often used for unfunded plans and an asset return rate is used for funded plans. An appropriate asset return rate will vary depending on how assets are invested. The discount rates used by public sector entities may also be different then the discount rates used in the Plan’s own financial statements prepared under Part IV of the CPA Canada Handbook – Accounting, resulting in significant different measurements of accrued benefit obligations for the same plan in different financial statements. This inconsistency could be confusing to users.

  The Panel observes that many more recent accounting pronouncements relating to liability measurement require that the discount rate used to measure the liability capture the risks inherent in that liability. The panel suggests that the

Employment Benefit Task Force consider whether the method used to settle an obligation should affect how that obligation is measured and how the risks inherent in the obligation are best captured either in the discount rate or in other aspects of the measurement of the obligation.

Funding valuation

- As a funding valuation may result in a funding surplus or deficit that is very different than the accounting surplus or deficit this may be confusing to some users where both measures are presented in the same document.
- The Panel believes it may be beneficial to include additional discussion in a revised standard or other material about how the objectives and assumptions in funding valuations may differ from those used in the accounting valuation and why.
- The Panel suggests that a disclosure highlighting the quantitative differences in the funding valuation compared to the accounting valuation should be made in the financial statements of pension plans and/or in the financial statements of sponsors when information on the funding valuation of a plan is also made public or available to the same users of the financial statements. This would be useful to users as it would provide additional context for both the accounting and funding valuations.

Commented [PM24]: I am ok with disclosure of additional information. I do not wish to impose an accounting analysis to evaluation the differences between actuarial funding and accounting valuations.

Commented [LD25]:
Is this going to far?
Otherwise, have to think about how we highlight that this recommendation is to AcSB and not PSAB/Task force.

APPENDIX A – PENSION PLAN GOVERNING ARRANGEMENTS

OTPP

- The *Teachers' Pension Act*, R.S.O. 1990, c.T.1 (Link to the Teachers' Pension Act);
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The plan text for OTPP;
- An agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Minister of Education and Training and The Ontario Teachers' Federation represented by its Executive, dated July 15, 1991, as amended (The Partners' Agreement);
- A Funding Management Policy, attached as Appendix A to the Partners' Agreement (FMP).

OPSEU

- The Ontario Public Service Employees' Union Pension Act, 1994 S.O. 1994, c 17, s.143 Sched (Link to the Ontario Public Service Employees' Union Pension Act)
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The sponsorship agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Chair of the Management Board of Cabinet and the Ontario Public Service Employees' Union, dated April 18, 1994, as amended (The Sponsorship Agreement);
- The Agreement and Declaration of Trust of OPSEU Pension Plan Trust Fund, dated October 25, 1994, as amended (The Trust Agreement);
- The plan text for OPSEUPP;
- OP Trust Funding policy.

Appendix B - Accounting references

IPSASB 39. 67. A net defined benefit asset may arise where a defined benefit plan has been overfunded or where actuarial gains have arisen. An entity recognizes a net defined benefit asset in such cases because:

(a) The entity controls a resource, which is the ability to use the surplus to generate future benefits;

(b) That control is a result of past events (contributions paid by the entity and service rendered by the employee); and

(c) Future economic benefits are available to the entity in the form of a reduction in future contributions or a cash refund, either directly to the entity or indirectly to another plan in deficit. The asset ceiling is the present value of those future benefits

Appendix C

- Compare to BC and NB plans. Key differences here is that documents, including the contribution rates, can change if agreed upon by joint sponsors.

Commented [LD26]: Current parking lot – to be completed and refined .

Commented [NT27]: o/s need to understand why the AG referred to these – is there a concern that we need to address that we have not yet.

5 - Email - December 19 2016 - RE_ Draft report - Outline v 2.pdf

From:	Uros Karadzic
To:	lucy.durocher@ca.pwc.com; Murray Gold (mgold@kmlaw.ca); Martin, Paul (FIN) (Paul.Martin@gnb.ca); Patricia O"Malley (plomalley@outlook.com)
Cc:	Tam, Nelson (TBS)
Subject:	RE: Draft report - Outline v 2
Date:	December-19-16 12:19:13 PM
Attachments:	PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v2 - UK comments.docx

So it appears I'm the last one in with my comments – here they are.

The draft was excellent, and I think we're well on our way to a good report. In addition to changes and comments I made throughout the document, I have added a few paragraphs in the end that I think we need to address.

Uros

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From: lucy.durocher@ca.pwc.com [mailto:lucy.durocher@ca.pwc.com]
Sent: Thursday, December 15, 2016 11:42 PM
To: Murray Gold (mgold@kmlaw.ca) <mgold@kmlaw.ca>; Martin, Paul (FIN) (Paul.Martin@gnb.ca) <Paul.Martin@gnb.ca>; Patricia O'Malley (plomalley@outlook.com) <plomalley@outlook.com>; Uros Karadzic <uros.karadzic@ca.ey.com>
Cc: Tam, Nelson (TBS) <Nelson.Tam@ontario.ca>
Subject: Draft report - Outline v 2

All,

So I was not joking when I said that I considered "end of day" to be 11:59pm.... (EST!) In fact I'm 20 minutes early...

Please see attached the draft report - outline v 2, which is substantially more filled out, and hopefully captured all the key points of the panel conversations. I have left a number of comments where I am specifically seeking input, but of course please provide input on all aspects of the draft report. Particularly if there are any additional perspectives or thoughts that should be addressed based on outcomes from the meeting with the AG tomorrow.

It has expanded in number of pages, but this is because I put it all in arial 12pt font as instructed by Comms.

Regards,
Lucy

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PENSION ASSET EXPERT ADVISORY PANEL REPORT Dr_4.pdf

PENSION ASSET EXPERT ADVISORY PANEL

[DRAFT] REPORT

[NTD - o/s Cover letter? (including mandate summary)

Executive Summary]

Mandate of the Panel

- Pension Asset Expert Advisory Panel (the Panel) was formed to address
  - The requirement regarding control with respect to recognizing a pension asset for a joint defined benefit plan
  - The requirement regarding control with respect to recognizing a pension asset for other pension plans
  - Appropriate valuation techniques to measure a pension asset that take into consideration future decision making authority by plan sponsors
  - Recommendations to the Employee Future Benefits Task Force of the Public Sector Accounting Board regarding issues that should be considered in its review of the retirement and post-employment benefits standards.

- Looked at recognition and measurement of pension assets arising in certain jointly sponsored pension plans (specifically, the Ontario Teachers' Pension Plan (OTPP) and the Ontario Public Service Employees' Union Pension Plan (OPSEUPP), collectively the "Plans") in accordance with Canadian public sector accounting standards (PSAS).

- The recognition and measurement of pension assets arising in other plans, such as the Healthcare of Ontario Pension Plan (HOOPP) and the Colleges of Applied Arts and Technology Pension Plan (CAATPP) will be covered in a later supplemental report that considers the different attributes of these plans

Nature of the pension plans examined

- Pension plans are not all alike. Each pension plan has distinct contractual and other arrangements that must be considered in assessing the accounting for that plan. This is particularly true of the JSPPs, where there is greater variation in the plans' governance, funding policies and other matters that require a careful examination of appropriate accounting for each of the plan's particular facts and circumstances.
- The relevant legislative acts and contractual arrangements governing the Plans that were considered by the Panel are listed in Appendix A.
- While the Provincial Government has the legislative ability to change the relevant Acts, it has also entered into contractual arrangement with the employee sponsor(s). For accounting purposes the existing contractual agreements are past transactions and are used for assessing existing rights and powers under the arrangements. Changes to the contractual arrangements (or a government's ability to set aside a contract using sovereign power) are not considered unless, or until, any such change were to become effective.
- Under pension legislation, there are several categories of defined benefit plans. Jointly sponsored pension plans are a separate category from single sponsor plans or multi-employer plans and have different regulatory requirements.
- Similarly, under PSAS there are several categories of defined benefit plans, which include joint defined benefit pension plans (JDBPs) as a separate category from single sponsor or multi-employer plans.
- In JDBP~~'~~s a government shares the risks and rewards of a defined benefit plan with plan participants, represented by a sponsor or sponsors. The key characteristic of a JDBP is that there is a formal agreement between the sponsors which established that the sponsors have shared control over the plan. By definition, neither sponsor has unilateral control over the plan, as joint control (shared decision making) is an inherent requirement for a JDBP.
- Other characteristics of JDBPs include:
  - Funding contributions are shared mutually between the government and plan members
  - The sponsors have control over decisions related to the administration of the plan and the level of benefits and contributions on an ongoing basis based on the terms of the contractual agreement
  - The sponsors share, on an equitable basis, the significant risks associated with the benefit plan~~.~~
  - The government does not retain any residual risk (eg. in respect of the obligation already accrued).

- ~~Historically,~~ OTPP was a single sponsored plan until 1992 when it was converted to be a jointly sponsored pension plan and became a joint defined benefit plan for accounting purposes. OPSEUPP was carved out of the Public Service Pension Plan (a single sponsor plan) in 1995 and established as a jointly sponsored pension plan and joint defined benefit plan for accounting purposes.
- The motivation for making these changes was so the Provincial Government could transfer a share of the risks and costs of the obligation to the members of the plans. In return for taking on a share of the risk and cost of the obligation, the members received an equitable share of any surplus in the plan (both the upside and downside of plan performance are equitably shared) and the member Sponsors received the right to participate in shared control of the plan, meaning both parties to agree to significant plan decisions such as plan structure, benefits available under the plan, contribution rates, funding levels and other policy decisions.
- As both the funding risk and rewards and the governance of the plan are shared between the employer sponsor(s) and the employee sponsor(s) the move from a single sponsored plan to a jointly sponsored plan was considered to be a fair deal for both sides while achieving a public policy aim or reducing the risk of the obligation to the Provincial Government.

- The fundamental difference between single sponsor defined benefit plans and joint sponsor defined benefit plans is that the control that a single sponsor would have over setting contribution rates and benefits has been replaced with joint control over those decision. The sharing of the risks and rewards of the pension plan on an equitable basis is consistent with the sharing of control over those policies that influence the outcomes of the pension plan.

OTPP – Structure and organization

Sponsors

- The OTPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Minister of Education and Training) as the employer Sponsor and the Ontario Teachers' Federation (represented by its Executive) as the employee Sponsor. The partnership agreement between the joint sponsors sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OTPP is also a multi-employer plan, but these employers are not sponsors.

Commented [LD1]: This was the language in my notes, but perhaps there is a better way of phrasing this?

Decision making

- The OTPP Board is appointed by the joint sponsors and is responsible for the administration of the pension plan, such as investment of assets, payment of benefits, preparation of pension valuations and managing the pension fund.
- The Board does not make any fundamental decisions regarding benefits and contributions as these decisions rest with the joint sponsors' Partners Committee, to which an equal number of representatives are appointed by each sponsor.

Funding arrangements

- The basic funding arrangement in the Teachers' Pension Act is that the employers' contributions shall not exceed those of the members.
- Historically, the Employers have matched the members' contributions, based on the members' contributions in a previous year. This has results in contributions being made typically on a 50:50 basis between employers and members (except where specifically agreed otherwise).
- The contractual arrangements require that an actuarial valuation for funding purposes is prepared at least once every three years to comply with the *Pension Benefits Act*. This actuarial valuation is required to actuarially balanced – meaning that the benefits and costs to be paid from the fund plus any contingency reserve equals the present value of the members and employers contributions and special payments. A preliminary valuation is prepared based on the existing terms of the plan but to the extent that this preliminary valuation is not actuarially balanced the joint sponsors must negotiate and agree what changes to the plan must be made in order to reach an actuarially balanced valuation that will be filed. This process means there is no funding surplus or deficit in the final funding valuation.
- The changes to the plan agreed upon by the joint sponsors could be to increase or decrease contributions for employers and/or members or to improve benefits payable to members. Negotiation must be made in good faith and if an agreement is not reached within a certain time frame a mediator may be appointed by the joint sponsors, and, if necessary a board of arbitration.
- The joint sponsors have agreed to a Funding Management Policy (FMP) which, although not binding, sets a framework for the sponsors to negotiate the use of any funding surpluses or deficits. The FMP clearly indicates that above a certain funding range the sponsors can negotiate to lower contributions or provide temporary or permanent benefit enhancements.
- The OTPP plan text does not limit the outcomes of the negotiation between the joint sponsors. There is no minimum level or fixed range of contributions by

Commented [LD2]: Note, it is actually the "year before the preceeding year" to two years previous. Did not think it necessary to get into this detail, but it is why it says "a" previous year not "the" previous year.

members or employers that cannot be changed through the required negotiations.

OPSEUPP – Structure and organization

Sponsors

- The OPSEUPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Chair of the management Board of Cabinet) as the employer Sponsor and the Ontario Public Service Employees' Union as the employee Sponsor.
- The joint sponsors established a trust (OP Trust) and the declaration of trust between the joint sponsors and the trustees of OP Trust sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OPSEUPP is also a multi-employer plan, but these employers are not sponsors.

Commented [LD3]: Confirm this is correct. Sponsor agreement states it is a single employer plan, but other parts of the plan text indicates that it is multi employer with crown corps etc.

Decision making

- The Trustee Board administers the plan and an equal number of trustees are appointed by each of the Provincial Government and OPSEU.
- The Trustee Board votes on resolutions by majority vote. This means that trustees representing both the Provincial Government and OPSEU must agree. In the case of a deadlock there are agreed upon procedures to determine a temporary 11th trustee, as agreed by both the sponsors (or, if necessary, appointed by the Chief Justice of Ontario).
- The trustees are responsible for the administration of the OPSEUPP including the investment of assets, payments of benefits, receipt of contributions, preparation and filing of actuarial valuations in accordance with the Pension Benefits Act
- The trustees have no power to amend the plan or the trust agreement. All decisions regarding contribution levels and benefits to be provided under the plan are the responsibility of the sponsors
- Amendments to the trust agreement, plan text and sponsorship agreement require unanimous written consent of the sponsors.

Commented [LD4]: I'm not clear on whether this is an administrative Board or a representative Board – please advise.

Funding arrangements

Commented [LD5]: Panel to confirm this is an appropriate summary

- The basic funding arrangement in the OPSEUPP text is that employers match the contributions of the members.
- Funding zone agreements
- Limits (or lack thereof) on negotiation of contributions set by plan text
- The plan text clearly states that no amount of surplus shall be paid out of the plan to the Provincial Government or any participating employer. However, it is also clear that contribution reductions are not considered to be a pay out of surplus.
- Any net actuarial gains that arise (after funding certain specific transitional liabilities) are to be used equally for the benefit of employers and OPSEU. Specifically, 50% of the gain may be collectively bargained and used to the benefit of the employers, and 50% of the gain may be collectively bargained and used for the benefit of plan members. There are no restrictions on how each party bargains the use of their surplus. There is no minimum level or fixed range of contributions by members or employers that cannot be changed by agreement of the joint sponsors or through the use of their respective surplus portions.

Commented [LD6]: Check wording against plan text – o/s to find reference.

Commented [UK7]: Is this correct? Does this need to be bargained?

Panel view

Both OTPP and OPSEUPP have been accounted for as joint defined benefit plans in the Public Accounts of Ontario accordance with PS 3250 since that standard was issued in 2001.

The panel agrees with the accounting classification of both plans as joint defined benefit plans.

Determination of relevant accounting guidance

- The accounting analysis is performed under Public Sector Accounting Principles (PSAS) as issued by the Canadian Public Sector Accounting Board.
- PSAS provides sources of guidance in determining appropriate accounting principles in PS 1150. First must follow any specific standard that relates to the issue under consideration (apply every source of primary GAAP). In this case, PS 3250, *Retirement benefits* is a standard that relates to the accounting for defined benefit pension plans. Further, PS 3250 also defines and contains guidance specifically on joint defined benefit plans.
- If a primary GAAP source, such as PS 3250, is not clear the government would develop an accounting policy considering other standards within PSAS and Section 1000, *Financial Statement Concepts*.

- A government may also refer to accounting guidance in other GAAP frameworks as long as consistent with PSAS standards and Section 1000 above.

Panel View

- The Panel considered the guidance in PS 3250.
- In addition, the panel noted that there were some areas where PS 3250 is not clear with respect to how the guidance in PS 3250 applies to JDBPs. In these cases the panel referred to relevant other guidance, as identified in the analysis below.

Commented [UK8]: Is this sufficient? Should we be more specific and detailed?

Recognition issues

1) Application of Defined Benefit accounting to Joint Defined Benefit Plans

- PS 3250 Paragraph 81states “When a government participates in a joint defined benefit plan, the government's risk is limited to its portion of the plan. The government should account for its portion of the plan in accordance with the standards for defined benefit plans”.
- The panel discussed two possible interpretations of how this guidance is to be applied to JDBPs:
  - Interpretation A) Divide the plan between the sponsors’ respective portion, and the government applies the guidance on Defined Benefit plans in PS 3250 only to their portion;
  - Interpretation B) The government applies the Defined Benefit guidance in PS 3250 to the plan as a whole ~~using~~ and then recognizes only its portion of the plan in its financial statements
- The interpretation of this paragraph affects the perspective through which the asset recognition guidance in PSAS and the guidance on defined benefit plans in PS 3250 is applied (to the plan or the government’s portion of the plan).
- For example, under interpretation A, dividing the plan first would entail measuring plan assets at the government’s share, determining the accrued benefit obligation at the government’s share and then applying the valuation allowance to any net accrued benefit asset that arises. Both the Province and AG seem to implicitly adopt this view in their analysis.
- Under interpretation B, the assets and accrued benefit obligation amounts for the whole plan are measured in accordance with PS 3250. The valuation allowance guidance is applied to any accrued benefit asset that arises on the plan as a whole. The government then calculates its portion of the accrued benefit asset,

net of any valuation allowance in determining the amount of asset to recognize in the Public Accounts.

- Interpretation B is, in the view of the Panel, a more appropriate answer because it aligns most closely with the concepts of Defined Benefit accounting in PS 3250 and with the economic substance of joint defined benefit plan arrangements.
    - Defined Benefit plan accounting in Financial Statements is based on a *net* amount of plan assets less accrued benefit obligations. Rather than presenting plan assets as "Assets" of the government and plan liabilities as "Liabilities" of the government these are presented as a net asset or liability, which reflects that the plan is a separate entity. This accounting is more similar to an "equity method" of accounting which reflects the sponsor's interest in the net assets (or net liability) of a plan than to a proportionate consolidation accounting. Therefore it similarly is appropriate to calculate the net assets (or liabilities) in the plan in accordance with accounting standards before determining the sponsor's portion of the plan.
    - The fundamental difference between a single sponsor plan and a joint defined benefit plan is in the latter control is shared and a sponsor has only a portion of the risks and rewards. It would be consistent to calculate the plan net asset or net liability in the same manner as for single sponsor plan – on a whole plan basis – before accounting for the shared control distinction by determining what is the government's portion that net asset or net liability.
    - The contractual arrangements between the Sponsors affect the plan as a whole because there is joint control over the plan as a whole and not unilateral control by each sponsor over their portion of the plan. For example, there is one funding policy, one Partners' agreement (OTPP) or sponsorship agreement (OPSEUPP), one plan text and so on that govern the respective plans. Members' service and earnings are also measured as a whole, and not split between different sponsors. A determination of the assets and the liabilities can only be made with reference to the plan as a whole. Therefore it also follows that other aspects of the guidance for accounting for defined benefit plans, such as the valuation allowance guidance, should be applied to the plan as a whole prior to determining a government's portion. This may be particularly important when the portion is determined on an equitable basis, but not necessarily an equal (50:50) basis

Commented [UK9]: I'm not sure I see the this is "particularly important" if 50/50

- An important characteristic of JDBPs is that there is an equitable sharing of the plan which applies to both risks and rewards and is the underlying business rationale for a JDBP. It would not be an equitable sharing for a sponsor to have only an obligation for a net liability without any access to a net asset position. One of the implications of Interpretation A is that the sponsors might recognize a liability for their portion of a net liability but be unable to recognize an asset for their portion of a net asset. In the view of the Panel would not faithfully represent the underlying risks and rewards of the arrangement.
- The Panel believes that if the PSAB had intended joint defined benefit plans to apply the valuation allowance guidance for defined benefit plan accounting only to a portion of the plan they would have provided additional guidance as to how this should be performed.

Application to OTPP and OPSEPP

- The OTPP plan states that the risks [and rewards] are shared between employers and members on an equitable basis, which has historically been on a 50:50 when considered over the long term.
- The OPSEUPP plan indicates that any actuarial gains are allocated to the employers and members on a 50:50 basis and then this portion may be utilized by that party as they determine over time. This means that members and employers could utilize their gains at different times, as historically has been the case. This means that the portion of any net asset that relates to the government's share may fluctuate as a percentage of the total net asset balance and may not result in the government having a 50% portion of the net asset at any one time.

Panel View

The Panel believes it is appropriate to apply all aspects of the guidance for accounting for defined benefit plans in PS 3250 to a JDBP prior to determining the government's portion of that plan for recognition within the financial statements.

2) Definition of an asset – Is there an economic resource

- Under PSAS an assets are defined as "economic resources controlled by a government as a result of past transactions or events and from which future economic benefits are expected to be obtained".

- The resource in question is the accounting accrued benefit asset that arises from applying the accounting guidance in measuring plan assets and the accrued benefit obligation, including the provisions regarding the deferral of unamortized gains or losses. The accrued benefit asset may be very different from any funding surplus calculated under an actuarial valuation performed for funding purposes. Funding valuations may use different actuarial methods and assumptions, such as a provision for adverse deviations. However, under accounting standards it represents the best estimate of the accrued benefit obligation and the fair value of the plan assets, as adjusted for the permitted deferral provisions. Notwithstanding there is a degree of measurement uncertainty regarding both the measurement of the plan assets and the accrued benefit obligation, PS 3250 – the primary source of GAAP for retirement benefit plans – clearly requires that such an asset is recognized for a single sponsored plans. Consistent with the discussion in 1) above, for JDBP plans these requirements are still applicable and this asset should be considered in the context of the plan as a whole, prior to determining what portion of the asset (if any) is the government's share.

- The recognition of an accrued benefit asset for accounting purposes is then subject to the measurement provisions of the valuation allowance guidance (See section on "Measurement" below).

- In addition to the requirement of PS 3250 to recognize an accrued benefit asset, the Panel also noted the following guidance indicates that an accrued benefit asset in a JDBP represents an economic resource that gives rise to future economic benefits:
  - PSAS provides additional guidance on economic resources and future economic benefits in PS 3210, *Assets,* which is effective from April 1, 2017. An economic resource embodies value because it enables an entity to meet its objectives, such as the provision of public goods and services, redistribution of wealth, generation of cash inflows or reduction of cash outflows. An accrued benefit asset in a pension plan is a resource because it can be used to generate future benefits. This view is confirmed by guidance in IPSASB 39.67
  - The economic resource (plan surplus for accounting purposes) can provide future economic benefits to the joint sponsors in the form of a reduction of cash outflows in the future because it can be used to reduce future contributions, as long as the sponsors are expected to be able to access those future contribution reductions (3210.04(a)). This view is confirmed by guidance in IPSASB 39.67

Commented [LD10]: We discuss this access in detail a bit later on.
To consider flow and placement of support some more when drafting final report.
This thought is not quite well enough supported here.

- In a joint defined benefit plan, the sponsors form a control group. When looking at whether the sponsors can access future contribution reductions or a withdrawal of surplus in meeting the asset definition for the plan as a whole the rights of the sponsors collectively should be considered.
- There is considerable case law in Canada addressing single sponsor plans and the ability of that sponsor to either withdraw surplus from the plan or take contribution holidays. Critical to assessing the ability of the sponsor to withdraw surplus or take contribution holidays is the plan text; clear rights within the plan text can support the sponsor's right to withdraw surplus or take contribution holidays. However, when the plan text is not clear, there may be legal uncertainties as to whether the sponsor "owns" the surplus. Withdrawal of surplus by the sponsor is generally subject to regulatory and legal hurdles, such as either approval by the Financial Services Commission of Ontario ~~approval~~accompanied by ~~with~~ a court order, an arbitration award, or an agreement between employer and members for any surplus withdrawal. Therefore under case law it is generally considered that a sponsor does not have a legal right to withdraw a surplus until these hurdles have been passed, unless there is a clear right in the plan text.
- Conversely, if the plan text is not clear on the right of a sponsor to be able to reduce contribution, generally Canadian case law would support that the sponsor has the right and ability to utilize surplus through contribution holidays.
- An analysis of the plan documents for OTPP and OPSEU indicate that in both plans the sponsors negotiate and agree on contribution rates. This means that collectively the sponsors can exercise their shared control to reduce future contributions to the plan and access their portion of the economic resource in the form of future economic benefits. In the case of OTPP the government can benefit from the economic resource through the negotiation process over contributions required to make the actuarial valuation actuarially balanced. Similarly the government can benefit from any OPSEUPP asset through their ability to bargain their 50% of any actuarial gains.
- [SHOULD WE ADD A PARAGRAPH ON PAST HISTORY THAT CONFIRMS IN PRACTICE OUR ITNERPRETATION ABOVE – IE. THE PLAN SPONSORS HAVE BEEN ABLE TO BENEFIT FROM NAY GAINS/SURPLUSES IN THE PAST]

- PS 3320 applies to contingent assets which are defined as "possible assets arising from existing conditions or situations involving uncertainty. That uncertainty will ultimately be resolved when one or more future events not wholly within the public sector entity's control occurs or fails to occur. Resolution of the uncertainty will confirm the existence or non-existence of an asset". The

Commented [LD11]: To Panel: In fleshing out the first section, I felt that these items did not fit well in the "nature of pension plans" section, so suggest moving them here as they relate to the recognition issues. However, would like feedback on whether this revised flow works or these should be moved back.

Commented [UK12R11]: I like it

Commented [LD13]: Question for Murray – is this in the right place?
This sentence was in the bulleted draft, however, not clear whether this relates only to legal uncertainties over the surplus (i.e. withdrawal) or is a more general comment covering contribution holidays. If the latter then it should be moved somewhere else.

Commented [UK14]: I don't think this is correct – the plan text may be a necessary but insufficient requirement. In other words, it is possible that the plan text is abundantly clear, but the way the plan has been communicated to members, the trust has been set up, etc. may still prevent the employer from claiming the surplus. Murray to confirm.

Commented [UK15]: Is bargaining required for this?

implication of a contingent asset is that it is not recognized in financial statements. An accrued benefit asset is not an uncertain economic resource. While there is measurement uncertainty regarding the measurement of an accrued benefit asset due to the necessity of making a number of assumptions regarding demographic and financial actuarial assumptions as well as fair values of plan assets, there is no uncertainty as to whether the plan exists, and therefore over the underlying existence of any estimated accrued benefit asset as an economic resource. PS 3320 notes that "The mere fact that an estimate of an amount is involved (measurement uncertainty) does not, in and of itself, constitute the type of uncertainty that characterizes a contingent asset". The extent of the economic resource become clear as measurement uncertainty is resolved not as future events occur or fail to occur. As such, PS 3320 is not a relevant source of guidance in considering whether an asset exists in respect of an accrued benefit asset.

Panel view

The accounting asset meets the definition of an economic resource because the accrued benefit asset exists and future benefit is available to the sponsors in accordance with the plan documents. There is no existence uncertainty regarding the net pension asset.

3) Definition of an asset - Control

- The definition of an asset under PSAS requires that an economic resource is controlled by a Government. PS 3210.16 expands on this control requirement noting that control exists when a government can benefit from economic resource, when they can deny or regulate access to the resource, and when they are exposed to risks associated with the economic resource.
- An accrued benefit asset in a joint defined benefit plan still meets the asset definition from the perspective of a joint sponsor as the joint sponsor is exposed to risks associated with the resource, since ~~as~~ they are exposed to risk of plan surplus changing from a change in actuarial assumptions or emerging plan experience. The government sponsor may also regulate access to the resource because joint control means that they must agree to any changes to the plan text or contractual arrangement and as such can deny the other sponsor access to the resource to the extent that joint decisions must be made over the use of the asset.
- As noted above in the case of OTPP and OPSEU the government can benefit from the economic resource.

- Shared control means that there is control, but that control over the plan as a whole is exercised through the joint sponsors as a control group. The contractual arrangements for OTPP and OPSEUPP set out how that joint control is exercised, including how surpluses and deficits are dealt with. In the context of PS 3250, the defined benefit guidance is to be applied to each plan, and then the members of control group each pick up their share. This shared control relationship contrasts with participating employers that are not part of the control group, as those employers do are not able to regulate or deny access to the plan assets and therefore cannot control access to the economic resource of a net plan asset.
- By definition, a joint sponsor of a JDBP does not have unilateral control or unilateral rights to the surplus of a JDBP. Instead there is an agreed upon, pre-determined process, with certainty that a conclusion on the use of any surplus will be reached and with the expectation that the outcome of the process will be an equitable sharing of any surplus, as equitable sharing is a key characteristic of a JDBP.
- There are other examples in PSAS where joint control results in asset recognition. PS 3060 requires asset recognition for government business partnerships subject to shared control using the modified equity method. Similarly, PS 3060 requires proportionate consolidation for other government partnerships, which results in a government recognizing a proportionate share of the capital assets held under joint control, for example, even though the government cannot control the use of that asset unilaterally. If a jointly controlled asset cannot meet the recognition criteria for an asset then it would logically follow that no investments in government partnerships could be recognized. As it is, such assets are recognized by governments applying PSAS in their public account. The same logic that shared control can still result in asset recognition should apply to a pension asset of a JDBP.
- PS 3250 does require that there is an existing legally enforceable right to withdraw a surplus. This does not mean that there has to be a legally enforceable right to reduce contributions to the plan in the future in order to have control of the economic resource. Under pension law, withdrawal of pension surplus have different legal characteristics from contribution holidays. The former requires that assets already paid into a trust and for which no claim is clearly retained in the plan document, is reclaimed. The latter, which is also a form of economic benefit, requires that assets are not paid into a trust in the future and that the existing claim on those assets is not given up by the sponsor. This is a distinction established in law, and in the view of the Panel, the requirements of PS 3250 paragraph 59 are intended to be applied to the more complex legal context of surplus withdrawal, rather than a broader context of contribution holidays.

Commented [UK16]: I think this should be rephrased. As written, we are back in the "two separate plans" paradigm, rather than "one plan with joint sponsors".

I have included a paragraph below that might be helpful.

- The economic benefit from any plan surplus can be derived either as a contribution holiday or as surplus assets withdrawn from the plan. Since OPSEU specifically prohibits surplus withdrawal by either of the joint sponsors, and OTPP is silent on the issue of surplus withdrawal, the Panel agreed with the Province and the AG that the joint sponsors cannot avail themselves of any surplus through withdrawal (jointly or separately). However, it is clear both from the plans' documents, as well as from actual practice, that the contribution reductions are available to plan sponsors. While the Panel is of the view that 3250.59 speaks directly to surplus withdrawal only, even if the requirements of that paragraph were to be applied to contribution reductions, the conditions would be met since the joint plan sponsors have the joint right to contribution reductions and holidays as a means to use any surplus assets in the plans.

Panel view

Unilateral control in a JDBP is not a requirement for asset recognition. An asset subject to joint control can still be recognized under PSAS. The joint sponsors jointly control the net pension asset, and can recognize ~~an asset relating to~~ their portion of that jointly controlled asset.

Panel View - Recognition

PS 3250 requires the *recognition* of an asset for the government's portion of the plan surplus for both plans.

Those assets may require a valuation allowance. The measurement of those assets is addressed in the next section.

Measurement issues

Overview of guidance on measurement of an accrued benefit asset

- A primary source of GAAP should apply if it exists. PS 3250 paras 50-59 provides guidance on measuring any accrued benefit asset that results when the plan assets are measured at an amount greater than the accrued benefit obligation. As the guidance on defined benefit plans is applied to JDBPs prior to the government recognizing its portion of the plan, the valuation guidance should also be applied to the plan as a whole, prior to the joint sponsors recognizing their portion of the result.

- If applying the guidance in PS 3250 results in an amount of an accrued benefit asset for the plan after a valuation allowance has been applied, if necessary, then by definition this amount equates to the expected future benefit that the sponsors can access in the plan and would be eligible for asset recognition in the books of the joint sponsor.
- PS 3250 defines an accrued benefit asset as "the amount of any asset recognized on a government's statement of financial position in respect of employee retirement benefits before deducting any valuation allowance that may be required. It is the sum of the government's accumulated cash contributions less the sum of the current and prior years' benefit expenses (before any change in the valuation allowance)."
- Accrued benefit asset is adjusted for any net unamortized losses~~, if any~~, before testing for the valuation allowance to give the adjusted benefit asset. "Adjusted benefit asset is an accrued benefit asset less the amount, if any, by which the aggregate of any unamortized actuarial losses exceeds the aggregate of any unamortized actuarial gains." This is because the net unamortized losses will unwind automatically overtime based on the accounting model in PS 3250. No adjustment is made for net unamortized gains as these would only increase the accrued benefit asset. In the case of OTPP and OPSEUPP there are net unamortized gains, and so the accrued benefit asset equals the adjusted benefit asset.
- PS 3250 requires that the expected future benefit is compared to the adjusted benefit asset
- PS 3250 specifies how the expected future benefit is to be calculated:
  A government determines its expected future benefit as the sum of:

a) the present value of its expected future accruals for service for the current number of active employees, less the present value of required employee contributions and minimum contributions the government is required to make regardless of any surplus; and

b) the amount of the plan surplus that can be withdrawn in accordance with the existing plan and any applicable laws and regulations.

1) Impact of legally enforceable rights on calculation of expected future benefit amount

- PS 3250 ~~uses the phrase~~refers to "expected future benefits". ~~This language indicates that future benefits only have to be expected, they do not have to be certain.~~ Under the standard there are two ways that expected future benefits may be realized – through the withdrawal or surplus or through using the surplus to fund the expense of benefits earned by members in future period – that is, paying lower contributions into the plan in the future, often referred to as a "contribution holiday".

Commented [UK17]: Consider breaking up an polishing. Very difficult to understand right now.

Commented [UK18]: I don't think this sentence is helpful. Again, we are not arguing for a lower standard to recognize assets under two separate plans, rather we are arguing that the joint sponsors have a clear right to benefit from a surplus under a JDBP. The "expected" part, in my mind, refers to measurement.

- The panel did not put any emphasis on expected future benefit arising from withdrawal of plan surplus, as the Provincial Government does not expect to benefit from surpluses through a withdrawal, and there is no explicit right for the sponsors to claim a withdrawal from the plans. In fact OPSEUPP explicitly states that the sponsors are not entitled to have any surplus paid out of the plan, and both OTPP and OPSEUPP plans state that upon wind up any surplus must be used to the benefit of members.
- PS 3250 paragraph 52 notes that the expected future benefits may be impacted if a government is not entitled to benefit fully from those expected future benefits or there are uncertainties as to the legal right to use a plan surplus. Such limitations might occur when there is an explicit requirement~~restriction~~ in the plan text requiring that employers must always match the members' contributions, or contribute a specified dollar amount, or where there is a floor in contribution requirements, which might limit the government's entitlement to benefit fully from future reductions in contributions. However, in the OTPP there is no such restriction. The government match to members' contributions required by the Teachers' Pension Act is to a maximum of the members contributions. The current arrangement that the employers match a prior years' contribution level by members is by agreement of the joint sponsors and may be changed in the future as part of the negotiations to create an actuarially balanced funding valuation. The plan sponsors' contributions can be reduced or eliminated. Similarly, for OPSEUPP the plan text agreed to matching employer/member contributions, but this may also be changed through the exercise of shared control with the other joint sponsor, including reducing them to 0%.
- Ultimately, all the decisions regarding plan contributions and plan benefits rests with the joint sponsors and there are no legal uncertainties regarding the sponsors rights, as joint sponsors, to determine contribution and benefit levels. It is clearly laid out in the legal and contractual arrangements of both OTPP and OPSEUPP.
- PS 3250 paragraph 59 requires a legally enforceable right to exist before an expected future benefit can be recognized for a withdrawal or surplus. The Panel believes that these requirements apply specifically to the expected future benefits of paragraph 56 (b) and not to the amounts calculated in accordance with 56 (a) amounts. Each sentence, excluding the last sentence, in paragraph 59 refers to a withdrawal of assets from the plan. Legally speaking, and consistent with the plan texts of OPSEUPP a contribution holiday is not a withdrawal of surplus - these are two separate concepts.
- The last sentence in paragraph 59 does refer to changes in the allocation of surplus. OTPP and OPSEUPP existing plan documents govern the allocation of surplus or provide the process on to how to agree the allocation of surplus on an

Commented [UK19]: Is this true for OTPP? If so, it would seem to violate 50/50 sharing.

equitable basis. In the case of OTPP, there is no requirement to changes the existing allocation of surplus or the existing rights within the contractual arrangement in order for the government joint sponsor to use their existing rights under the shared control arrangement to negotiate an expected future benefit. In the case of OPSEUPP the surplus is allocated to each joint sponsor the form of their respective stabilization reserve pools. However, as noted above, the Panel is of the view that even if the requirements of paragraph 59 were to be applied to the contribution reductions, the joint plans sponsors would meet the requirements jointly.

Panel View

- A joint sponsor does not have to have a unilateral legally enforceable right to reduce future contributions to have an expected future benefit under paragraph 56 (a). The sponsors jointly must have such right, and in the case of OTPP and OPSEU they do.

2) Calculation of the present value of expected future accruals for service for the current number of active employees

- PS 3250 provides further guidance on how to calculate the present value of expected future accruals for service for the current number of active employees.
- Under this guidance, this amount is determined on a basis consistent with the accrued benefit obligation. The calculation is based on an open group , which is the idea that the current number of employees will exist for perpetuity. This is generally recognized in practice as being an appropriate assumption for the application of this test under PSAS, unless there is an expected significant change in the number of members, for example because a plan is closed to new members or because of a planned restructuring. The panel is not aware of any such changes that are expected for either OTPP or OPSEUPP.
- The guidance notes that in addition to the expected future accrual for service, the expected administrative and investment expenses to be paid out of the plan can been included, if they are not already taken into account in the expected return of assets rate.
- The Panel suggests that the Province might consider to what extent the expenses paid out of the plan could be added to the economic benefit.

3) What are the "minimum contributions the government is required to make regardless of any surplus"

Commented [LD20]: Note – this analysis does not mention the FMP and funding zones etc.
Panel to advise if this should be added in anywhere and if so, where?

- The objective of the test in paragraph 56 (a) is to determine whether a sponsor will be able to obtain expected future benefit from an existing surplus, by reducing their contributions below the expected cost of benefits for future services provided under the plan.
- The purpose of the minimum contributions test is to determine whether there are requirements that would make a sponsor continue to contribute~~ion~~ cash at a certain level, even when there are plan surpluses on funding basis, and thus make it impossible for the sponsor to obtain a reduction in cash contributions to the plan.
- For a single sponsor plan, common practice in Canada under pension legislation is to consider that the sponsor can take a contribution holiday unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan, or if there are other requirements that would force the plan sponsors to continue contributing to the plan even though the surplus was present. The Panel concludes that, following the guidance in PS 3250 that the plan is accounted for as a whole using the Defined Benefit guidance and then the government picks up its portion of the plan, a similar logic should apply to JDBPs – the joint sponsors can take a contribution holiday since there are no restrictions as to the contribution reductions. ~~unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan~~.
- A question arises as to whether the surplus that is contemplated in the phrase “regardless of any surplus” is an accounting surplus or a funding surplus. The panel understands that in practice actuaries interpret this ~~in practice~~ to be funding surplus and not accounting surplus, and that if any contributions are required when there is a funding surplus these would be ~~minimum contributions”~~ minimum contributions the government is required to make regardless of any surplus”.
- There is also a question as to whether a joint sponsor can create a minimum contribution requirement on the other joint sponsor because shared control means that both sponsors must agree to any change in contribution levels, therefore absent any agreement the existing contribution levels are “fixed” and cannot be changed. However this view would not be consistent with the notion that the valuation allowance is being applied to the plan as a whole, with the joint sponsors able to collectively control the contribution levels under the plan arrangements. Equal reduced contributions for both members and employers benefit both joint sponsors
- It is relevant to note that as OTPP always requires an actuarially balanced valuation allowance to be filed, there is no funding surplus that arises, as any preliminary funding surplus must be dealt with through the negotiation process. A funding surplus could arise prior to the filing of the next actuarially balanced

Commented [UK21]: Great point!

funding valuation, as this must occur only once every three years. However, the joint sponsors can agree to file a funding valuation every year if they choose, to rebalance the contributions, reserves, and benefits of the plan. As the joint sponsors must agree on the contribution levels and make corresponding changes to the plan text if necessary, there are no "minimum contributions" that must be made, "regardless of any surplus", as there is no minimum level of contributions that must be agreed upon by the joint sponsors. Further, since the OTPP actuarial valuations must be balanced, showing no surplus or deficit, there is also no surplus that is anticipated by OTPP FMP. They can agree to any level of contributions as long as the result in actuarially balanced and so the level of surplus absolutely affects the contributions that are determined by this negotiation process. ~~While it might be expected that some level of contributions will be made in the future to fund the benefits cost of future services, there is no method of determining under the contractual arrangements what this would be, given that the level is subject to negotiation and must be negotiated. As such the "minimum contributions" cannot be determined.~~

Commented [UK22]: Not needed – just muddies the issue.

- Similarly, for OPSEUPP the stabilization reserves act as limit on the amount of funding surplus that accrued in the plan. Whether these stabilization reserves are used to reduce contributions or are maintained as a buffer is at the discretion of the joint sponsor. This is very similar to the ability that a single sponsor has to reduce contributions or maintain a reserve as a buffer for future changes in actuarial assumptions.

- The Panel noted that a number of calculation regarding the expected future benefit for both OTPP and OPSEU were made, based on different assumptions regarding what were the minimum contributions required under each plan. For example, scenarios included no minimum contributions, minimum contributions as the agreed upon contribution until the next mandatory negotiations in three years; minimum contributions as the currently agreed upon contributions for a longer period; and minimum contributions as the currently agreed upon contributions until certain limited on contributions under the Income Tax Act would be expected to kick in. The Panel view is that in case of OTPP and OPSEU, there are no "minimum contributions regardless of any surplus". ~~These various views exist because the standard does not currently provide clear guidance on how to apply the definition of "minimum contributions regardless of any surplus".~~

- If no expected future benefit to Gov't sponsor, then is also no expected future benefit to joint sponsor. Does this make sense? Is this consistent with public expectations and expectations of the other sponsor?

Commented [UK23]: Yes

Panel view - Measurement

- Based on the analysis of the plan arrangements for OTPP and OPSEUPP, there are no ~~the level of~~ minimum contributions required regardless of any surplus. ~~is lower than t~~The present value of expected future accruals for service for the current number of active employees~~. All things being equal this~~ creates sufficient economic benefit~~headroom~~ that could support the recognition of ~~an amount in respect of~~ the net pension asset of OTPP and OPSEUPP.
- ~~Recommendations to province – be mindful that if have a funding surplus and have a legal requirement to continue to contribute could be minimum contributions.~~

Commented [UK24]: I don't think we need this, as it's not currently in play or contemplated.

Recommendations to PSAB Employment Future Benefits Task Force

Commented [LD25]: These are currently in no particular order. Panel to advise as to ranking?

Application of guidance to Joint defined benefit plans

- The Panel notes that the standard ~~is not clear~~would benefit from clarification on how the ability to access expected future benefits should be applied in the context of Joint Defined Benefit Plans. A clarification on how the guidance in PS 3250.81 should be applied (Interpretation A or Interpretation B) would be helpful.

Minimum contributions

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that funding valuations drive decision making over plan funding including contribution increases or reductions by sponsors. However, funding valuations may result in net pension assets or liability that are very different from the accounting net pension asset or liability. This results in a lack of clarity over whether minimum contributions may be made "regardless of any surplus" and whether a sponsor will be able to access an accounting surplus when the funding surplus is much smaller, or is a funding liability. There is some difficulty in determining what are minimum contributions in the context of joint DB plans when future contributions are dependent on the funded status of the plan and negotiation.

Commented [UK26]: Should we also bring the notion of "additional liability" as per IFRIC 14? One could get into this interpretation anyway if the words "regardless of any surplus" were interpreted as accounting surplus. SO perhaps clarity that this is not intended would be good.

- For example, should the minimum contributions test be based on accounting surplus or funding surplus? Is it a present surplus or can it be a projected future surplus? Additional clarity on what constitutes a "minimum contribution" could increase consistency of application of this guidance for joint defined benefit plans [and single sponsor plans?].

Deferral accounting

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that the existing deferral provisions have the potential to result in an asset being recognized on financial statements when there is no underlying economic resource. Although this is not the case for either the OTPP or the OPSEUPP, this could occur when unamortized losses exist such that despite the the fair value of the plan assets being less than the estimated accrued benefit obligation, an accrued benefit asset could still be presented. This can be confusing to users of the financial statements as it is not transparent as to the underlying economic resource of the plan. Transparency is in the public interest. and transparency would suggest that it is important to recognize all liabilities or assets that exist and not to recognize assets where there is no underlying resource that gives rise to future economic benefit. Any mechanisms used to deal with potential income statement volatility concerns should ensure that these do not result in lack of transparency on the balance sheet. [Reference to IPSAS 39]

Discount rates

- The Panel supports PSAB examining discount rates for employment benefits. The Panel understand that in the public sector a sponsor borrowing rate is often used for unfunded plans and an asset return rate is used for funded plans. An appropriate asset return rate will vary depending on how assets are invested. The discount rates used by public sector entities may also be different then the discount rates used in the Plan's own financial statements prepared under Part IV of the CPA Canada Handbook – Accounting, resulting in significant different measurements of accrued benefit obligations for the same plan in different financial statements. This inconsistency could be confusing to users.

  The Panel observes that many more recent accounting pronouncements relating to liability measurement require that the discount rate used to measure the liability capture the risks inherent in that liability. The panel suggests that the

Employment Benefit Task Force consider whether the method used to settle an obligation should affect how that obligation is measured and how the risks inherent in the obligation are best captured either in the discount rate or in other aspects of the measurement of the obligation.

Funding valuation

- As a funding valuation may result in a funding surplus or deficit that is very different than the accounting surplus or deficit this may be confusing to some users where both measures are presented in the same document.
- The Panel believes it may be beneficial to include additional discussion in a revised standard or other material about how the objectives and assumptions in funding valuations may differ from those used in the accounting valuation and why.
- The Panel suggests that a disclosure highlighting the quantitative differences in the funding valuation compared to the accounting valuation should be made in the financial statements of pension plans and/or in the financial statements of sponsors when information on the funding valuation of a plan is also made public or available to the same users of the financial statements. This would be useful to users as it would provide additional context for both the accounting and funding valuations.

IN ADDITION, I THINK IT WOULD BE USEFUL TO INCLUDE THE FOLLOWING (LUCY TO DECIDE ON PLACEMENT AS THE NEXT VERSION IS BEING DRAFTED):

- WE NEED A "PLAIN ENGLISH" SECTION. HERE ARE SOME THOUGHTS:

  Both OTPP and OPSEU are joint defined benefit plans, meaning that the joint sponsors (the Province and the OTF/OPSEU) share in risks and costs of the plans equitably. The plans are funded under a separate regimes, which are often deliberately conservative, in order to protect the plans' funded status in case of poor performance. Therefore, it is not surprising that these plans would show considerable surpluses when viewed from an accounting "best estimate" perspective. The additional funding that was made to the plans therefore show up as accounting surpluses. Simply speaking, from an accounting best-estimate perspective, these plans have somewhat more assets than would currently be anticipated as needed to pay out all benefits.

  It is therefore reasonable to expect that the plan sponsors should be able to benefit from lower contribution levels in the future, if the plans indeed find themselves with surplus assets. While the Ontario taxpayers (or teachers/OPSEU members) may not expect refund cheques to be issued from these plans, it would be reasonable for them to expect that fewer contributions will need to be made into these plans if there are surplus assets in them.

Commented [UK27]: This seems pretty specific and directional…

Commented [LD28]:
Is this going to far?
Otherwise, have to think about how we highlight that this recommendation is to AcSB and not PSAB/Task force.

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Conversely, all parties would similarly expect that additional contributions will need to be made should deficits emerge.

Indeed, there are established mechanisms by which these expectations can be put into practice. In fact, plans histories show examples of where plan sponsors have benefitted from gains / surpluses in these plans. It is therefore reasonable to expect that the surplus assets in these plans will benefit the joint sponsors in the future as well. In fact, it would be unreasonable, absent any changes, to assume otherwise.

Given that the plan sponsors can be expected to benefit from surplus assets, those assets have real economic value. It would be misleading not to recognize those on the balance sheet of the Province. And given the 50/50% sharing of the JDBPs, 50% would be a reasonable share of the asset to recognize.

- PARAGRAPH ON ACCOUITNING NEEDING TO BE BEST-ESTIAMTE, NOT "CONSERVATIVE" – THIS IS SOMETHING THAT CAME OUT OF OUR MEETING ON FRIDAY. I SUSPECT TRICIA WILL WRITE SOMETHING UP ON THIS
- DO WE NEED A PARAGPRAPH TO RECONCILIE FUNDING VS. ACCOUNTING (BEYOND WHAT I WROTE ABOVE)?
- PARAGRAPH TO OBSERVE THAT AG'S VIEW WOULD LEAD TO A CONCLUSION THAT NO JDBP COULD EVER RECORD AN ASSET BY DEFINITION
- PARAGRAPH TO OBSERVE THAT IF WE ACCEPTED AG'S VIEW THAT THE PROVINCE IS ON THE HOOK FOR DEFICITS, BUT HAS NO ACCESS TO SURPLUS WOULD RESULT IN JDBP CLASSIFICATION BEING INCORRECT.
- PARAGRAPH ON OPSEU ADJUSTMENTS FOR SURPLUS ALREADY USED UP

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APPENDIX A – PENSION PLAN GOVERNING ARRANGEMENTS

OTPP

- The *Teachers' Pension Act*, R.S.O. 1990, c.T.1 (Link to the Teachers' Pension Act);
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The plan text for OTPP;
- An agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Minister of Education and Training and The Ontario Teachers' Federation represented by its Executive, dated July 15, 1991, as amended (The Partners' Agreement);
- A Funding Management Policy, attached as Appendix A to the Partners' Agreement (FMP).

OPSEU

- The Ontario Public Service Employees' Union Pension Act, 1994 S.O. 1994, c 17, s.143 Sched (Link to the Ontario Public Service Employees' Union Pension Act)
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The sponsorship agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Chair of the Management Board of Cabinet and the Ontario Public Service Employees' Union, dated April 18, 1994, as amended (The Sponsorship Agreement);
- The Agreement and Declaration of Trust of OPSEU Pension Plan Trust Fund, dated October 25, 1994, as amended (The Trust Agreement);
- The plan text for OPSEUPP;
- OP Trust Funding policy.

Appendix B - Accounting references

IPSASB 39. 67. A net defined benefit asset may arise where a defined benefit plan has been overfunded or where actuarial gains have arisen. An entity recognizes a net defined benefit asset in such cases because:

(a) The entity controls a resource, which is the ability to use the surplus to generate future benefits;

(b) That control is a result of past events (contributions paid by the entity and service rendered by the employee); and

(c) Future economic benefits are available to the entity in the form of a reduction in future contributions or a cash refund, either directly to the entity or indirectly to another plan in deficit. The asset ceiling is the present value of those future benefits

Appendix C

- Compare to BC and NB plans. Key differences here is that documents, including the contribution rates, can change if agreed upon by joint sponsors.

Commented [LD29]: Current parking lot – to be completed and refined .

Commented [NT30]: o/s need to understand why the AG referred to these – is there a concern that we need to address that we have not yet.

5 - PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v2 - UK comments.docx

PENSION ASSET EXPERT ADVISORY PANEL

[DRAFT] REPORT

[NTD - o/s Cover letter? (including mandate summary)

Executive Summary]

Mandate of the Panel

- Pension Asset Expert Advisory Panel (the Panel) was formed to address
  - The requirement regarding control with respect to recognizing a pension asset for a joint defined benefit plan
  - The requirement regarding control with respect to recognizing a pension asset for other pension plans
  - Appropriate valuation techniques to measure a pension asset that take into consideration future decision making authority by plan sponsors
  - Recommendations to the Employee Future Benefits Task Force of the Public Sector Accounting Board regarding issues that should be considered in its review of the retirement and post-employment benefits standards.
- Looked at recognition and measurement of pension assets arising in certain jointly sponsored pension plans (specifically, the Ontario Teachers' Pension Plan (OTPP) and the Ontario Public Service Employees' Union Pension Plan (OPSEUPP), collectively the "Plans") in accordance with Canadian public sector accounting standards (PSAS).
- The recognition and measurement of pension assets arising in other plans, such as the Healthcare of Ontario Pension Plan (HOOPP) and the Colleges of Applied Arts and Technology Pension Plan (CAATPP) will be covered in a later supplemental report that considers the different attributes of these plans

Nature of the pension plans examined

- Pension plans are not all alike. Each pension plan has distinct contractual and other arrangements that must be considered in assessing the accounting for that plan. This is particularly true of the JSPPs, where there is greater variation in the plans' governance, funding policies and other matters that require a careful examination of appropriate accounting for each of the plan's particular facts and circumstances.
- The relevant legislative acts and contractual arrangements governing the Plans that were considered by the Panel are listed in Appendix A.
- While the Provincial Government has the legislative ability to change the relevant Acts, it has also entered into contractual arrangement with the employee sponsor(s). For accounting purposes the existing contractual agreements are past transactions and are used for assessing existing rights and powers under the arrangements. Changes to the contractual arrangements (or a government's ability to set aside a contract using sovereign power) are not considered unless, or until, any such change were to become effective.
- Under pension legislation, there are several categories of defined benefit plans. Jointly sponsored pension plans are a separate category from single sponsor plans or multi-employer plans and have different regulatory requirements.
- Similarly, under PSAS there are several categories of defined benefit plans, which include joint defined benefit pension plans (JDBPs) as a separate category from single sponsor or multi-employer plans.
- In JDBP~~'~~s a government shares the risks and rewards of a defined benefit plan with plan participants, represented by a sponsor or sponsors. The key characteristic of a JDBP is that there is a formal agreement between the sponsors which established that the sponsors have shared control over the plan. By definition, neither sponsor has unilateral control over the plan, as joint control (shared decision making) is an inherent requirement for a JDBP.
- Other characteristics of JDBPs include:
    - Funding contributions are shared mutually between the government and plan members
    - The sponsors have control over decisions related to the administration of the plan and the level of benefits and contributions on an ongoing basis based on the terms of the contractual agreement
    - The sponsors share, on an equitable basis, the significant risks associated with the benefit plan~~.~~
    - The government does not retain any residual risk (eg. in respect of the obligation already accrued).

- ~~Historically,~~ OTPP was a single sponsored plan until 1992 when it was converted to be a jointly sponsored pension plan and became a joint defined benefit plan for accounting purposes. OPSEUPP was carved out of the Public Service Pension Plan (a single sponsor plan) in 1995 and established as a jointly sponsored pension plan and joint defined benefit plan for accounting purposes.
- The motivation for making these changes was so the Provincial Government could transfer a share of the risks and costs of the obligation to the members of the plans. In return for taking on a share of the risk and cost of the obligation, the members received an equitable share of any surplus in the plan (both the upside and downside of plan performance are equitably shared) and the member Sponsors received the right to participate in shared control of the plan, meaning both parties to agree to significant plan decisions such as plan structure, benefits available under the plan, contribution rates, funding levels and other policy decisions.
- As both the funding risk and rewards and the governance of the plan are shared between the employer sponsor(s) and the employee sponsor(s) the move from a single sponsored plan to a jointly sponsored plan was considered to be a fair deal for both sides while achieving a public policy aim or reducing the risk of the obligation to the Provincial Government.

- The fundamental difference between single sponsor defined benefit plans and joint sponsor defined benefit plans is that the control that a single sponsor would have over setting contribution rates and benefits has been replaced with joint control over those decision. The sharing of the risks and rewards of the pension plan on an equitable basis is consistent with the sharing of control over those policies that influence the outcomes of the pension plan.

OTPP – Structure and organization

Sponsors

- The OTPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Minister of Education and Training) as the employer Sponsor and the Ontario Teachers' Federation (represented by its Executive) as the employee Sponsor. The partnership agreement between the joint sponsors sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OTPP is also a multi-employer plan, but these employers are not sponsors.

Commented [LD1]: This was the language in my notes, but perhaps there is a better way of phrasing this?

Decision making

- The OTPP Board is appointed by the joint sponsors and is responsible for the administration of the pension plan, such as investment of assets, payment of benefits, preparation of pension valuations and managing the pension fund.
- The Board does not make any fundamental decisions regarding benefits and contributions as these decisions rest with the joint sponsors' Partners Committee, to which an equal number of representatives are appointed by each sponsor.

Funding arrangements

- The basic funding arrangement in the Teachers' Pension Act is that the employers' contributions shall not exceed those of the members.
- Historically, the Employers have matched the members' contributions, based on the members' contributions in a previous year. This has results in contributions being made typically on a 50:50 basis between employers and members (except where specifically agreed otherwise).
- The contractual arrangements require that an actuarial valuation for funding purposes is prepared at least once every three years to comply with the *Pension Benefits Act*. This actuarial valuation is required to actuarially balanced – meaning that the benefits and costs to be paid from the fund plus any contingency reserve equals the present value of the members and employers contributions and special payments. A preliminary valuation is prepared based on the existing terms of the plan but to the extent that this preliminary valuation is not actuarially balanced the joint sponsors must negotiate and agree what changes to the plan must be made in order to reach an actuarially balanced valuation that will be filed. This process means there is no funding surplus or deficit in the final funding valuation.
- The changes to the plan agreed upon by the joint sponsors could be to increase or decrease contributions for employers and/or members or to improve benefits payable to members. Negotiation must be made in good faith and if an agreement is not reached within a certain time frame a mediator may be appointed by the joint sponsors, and, if necessary a board of arbitration.
- The joint sponsors have agreed to a Funding Management Policy (FMP) which, although not binding, sets a framework for the sponsors to negotiate the use of any funding surpluses or deficits. The FMP clearly indicates that above a certain funding range the sponsors can negotiate to lower contributions or provide temporary or permanent benefit enhancements.
- The OTPP plan text does not limit the outcomes of the negotiation between the joint sponsors. There is no minimum level or fixed range of contributions by

Commented [LD2]: Note, it is actually the "year before the preceeding year" to two years previous. Did not think it necessary to get into this detail, but it is why it says "a" previous year not "the" previous year.

members or employers that cannot be changed through the required negotiations.

OPSEUPP – Structure and organization

Sponsors

- The OPSEUPP is a jointly sponsored pension plan.
- The joint sponsors are the Provincial Government (represented by the Chair of the management Board of Cabinet) as the employer Sponsor and the Ontario Public Service Employees' Union as the employee Sponsor.
- The joint sponsors established a trust (OP Trust) and the declaration of trust between the joint sponsors and the trustees of OP Trust sets out how shared control is achieved and governs all aspects of the plan.
- Other employers are part of the plan, meaning the OPSEUPP is also a multi-employer plan, but these employers are not sponsors.

Commented [LD3]: Confirm this is correct. Sponsor agreement states it is a single employer plan, but other parts of the plan text indicates that it is multi employer with crown corps etc.

Decision making

- The Trustee Board administers the plan and an equal number of trustees are appointed by each of the Provincial Government and OPSEU.
- The Trustee Board votes on resolutions by majority vote. This means that trustees representing both the Provincial Government and OPSEU must agree. In the case of a deadlock there are agreed upon procedures to determine a temporary 11th trustee, as agreed by both the sponsors (or, if necessary, appointed by the Chief Justice of Ontario).
- The trustees are responsible for the administration of the OPSEUPP including the investment of assets, payments of benefits, receipt of contributions, preparation and filing of actuarial valuations in accordance with the Pension Benefits Act
- The trustees have no power to amend the plan or the trust agreement. All decisions regarding contribution levels and benefits to be provided under the plan are the responsibility of the sponsors
- Amendments to the trust agreement, plan text and sponsorship agreement require unanimous written consent of the sponsors.

Commented [LD4]: I'm not clear on whether this is an administrative Board or a representative Board – please advise.

Funding arrangements

Commented [LD5]: Panel to confirm this is an appropriate summary

- The basic funding arrangement in the OPSEUPP text is that employers match the contributions of the members.
- Funding zone agreements
- Limits (or lack thereof) on negotiation of contributions set by plan text
- The plan text clearly states that no amount of surplus shall be paid out of the plan to the Provincial Government or any participating employer. However, it is also clear that contribution reductions are not considered to be a pay out of surplus.
- Any net actuarial gains that arise (after funding certain specific transitional liabilities) are to be used equally for the benefit of employers and OPSEU. Specifically, 50% of the gain may be collectively bargained and used to the benefit of the employers, and 50% of the gain may be collectively bargained and used for the benefit of plan members. There are no restrictions on how each party bargains the use of their surplus. There is no minimum level or fixed range of contributions by members or employers that cannot be changed by agreement of the joint sponsors or through the use of their respective surplus portions.

Commented [LD6]: Check wording against plan text – o/s to find reference.

Commented [UK7]: Is this correct? Does this need to be bargained?

Panel view

Both OTPP and OPSEUPP have been accounted for as joint defined benefit plans in the Public Accounts of Ontario accordance with PS 3250 since that standard was issued in 2001.

The panel agrees with the accounting classification of both plans as joint defined benefit plans.

Determination of relevant accounting guidance

- The accounting analysis is performed under Public Sector Accounting Principles (PSAS) as issued by the Canadian Public Sector Accounting Board.
- PSAS provides sources of guidance in determining appropriate accounting principles in PS 1150. First must follow any specific standard that relates to the issue under consideration (apply every source of primary GAAP). In this case, PS 3250, *Retirement benefits* is a standard that relates to the accounting for defined benefit pension plans. Further, PS 3250 also defines and contains guidance specifically on joint defined benefit plans.
- If a primary GAAP source, such as PS 3250, is not clear the government would develop an accounting policy considering other standards within PSAS and Section 1000, *Financial Statement Concepts*.

- A government may also refer to accounting guidance in other GAAP frameworks as long as consistent with PSAS standards and Section 1000 above.

Panel View

- The Panel considered the guidance in PS 3250.
- In addition, the panel noted that there were some areas where PS 3250 is not clear with respect to how the guidance in PS 3250 applies to JDBPs. In these cases the panel referred to relevant other guidance, as identified in the analysis below.

Commented [UK8]: Is this sufficient? Should we be more specific and detailed?

Recognition issues

1) Application of Defined Benefit accounting to Joint Defined Benefit Plans

- PS 3250 Paragraph 81states "When a government participates in a joint defined benefit plan, the government's risk is limited to its portion of the plan. The government should account for its portion of the plan in accordance with the standards for defined benefit plans".
- The panel discussed two possible interpretations of how this guidance is to be applied to JDBPs:
  - Interpretation A) Divide the plan between the sponsors' respective portion, and the government applies the guidance on Defined Benefit plans in PS 3250 only to their portion;
  - Interpretation B) The government applies the Defined Benefit guidance in PS 3250 to the plan as a whole ~~using~~ and then recognizes only its portion of the plan in its financial statements
- The interpretation of this paragraph affects the perspective through which the asset recognition guidance in PSAS and the guidance on defined benefit plans in PS 3250 is applied (to the plan or the government's portion of the plan).
- For example, under interpretation A, dividing the plan first would entail measuring plan assets at the government's share, determining the accrued benefit obligation at the government's share and then applying the valuation allowance to any net accrued benefit asset that arises. Both the Province and AG seem to implicitly adopt this view in their analysis.
- Under interpretation B, the assets and accrued benefit obligation amounts for the whole plan are measured in accordance with PS 3250. The valuation allowance guidance is applied to any accrued benefit asset that arises on the plan as a whole. The government then calculates its portion of the accrued benefit asset,

net of any valuation allowance in determining the amount of asset to recognize in the Public Accounts.

- Interpretation B is, in the view of the Panel, a more appropriate answer because it aligns most closely with the concepts of Defined Benefit accounting in PS 3250 and with the economic substance of joint defined benefit plan arrangements.
    - Defined Benefit plan accounting in Financial Statements is based on a *net* amount of plan assets less accrued benefit obligations. Rather than presenting plan assets as “Assets” of the government and plan liabilities as “Liabilities” of the government these are presented as a net asset or liability, which reflects that the plan is a separate entity. This accounting is more similar to an “equity method” of accounting which reflects the sponsor’s interest in the net assets (or net liability) of a plan than to a proportionate consolidation accounting. Therefore it similarly is appropriate to calculate the net assets (or liabilities) in the plan in accordance with accounting standards before determining the sponsor’s portion of the plan.
    - The fundamental difference between a single sponsor plan and a joint defined benefit plan is in the latter control is shared and a sponsor has only a portion of the risks and rewards. It would be consistent to calculate the plan net asset or net liability in the same manner as for single sponsor plan – on a whole plan basis – before accounting for the shared control distinction by determining what is the government’s portion that net asset or net liability.
    - The contractual arrangements between the Sponsors affect the plan as a whole because there is joint control over the plan as a whole and not unilateral control by each sponsor over their portion of the plan. For example, there is one funding policy, one Partners’ agreement (OTPP) or sponsorship agreement (OPSEUPP), one plan text and so on that govern the respective plans. Members’ service and earnings are also measured as a whole, and not split between different sponsors. A determination of the assets and the liabilities can only be made with reference to the plan as a whole. Therefore it also follows that other aspects of the guidance for accounting for defined benefit plans, such as the valuation allowance guidance, should be applied to the plan as a whole prior to determining a government’s portion. This may be particularly important when the portion is determined on an equitable basis, but not necessarily an equal (50:50) basis

Commented [UK9]: I’m not sure I see the this is “particularly important” if 50/50

- An important characteristic of JDBPs is that there is an equitable sharing of the plan which applies to both risks and rewards and is the underlying business rationale for a JDBP. It would not be an equitable sharing for a sponsor to have only an obligation for a net liability without any access to a net asset position. One of the implications of Interpretation A is that the sponsors might recognize a liability for their portion of a net liability but be unable to recognize an asset for their portion of a net asset. In the view of the Panel would not faithfully represent the underlying risks and rewards of the arrangement.
- The Panel believes that if the PSAB had intended joint defined benefit plans to apply the valuation allowance guidance for defined benefit plan accounting only to a portion of the plan they would have provided additional guidance as to how this should be performed.

Application to OTPP and OPSEPP

- The OTPP plan states that the risks [and rewards] are shared between employers and members on an equitable basis, which has historically been on a 50:50 when considered over the long term.
- The OPSEUPP plan indicates that any actuarial gains are allocated to the employers and members on a 50:50 basis and then this portion may be utilized by that party as they determine over time. This means that members and employers could utilize their gains at different times, as historically has been the case. This means that the portion of any net asset that relates to the government's share may fluctuate as a percentage of the total net asset balance and may not result in the government having a 50% portion of the net asset at any one time.

Panel View

The Panel believes it is appropriate to apply all aspects of the guidance for accounting for defined benefit plans in PS 3250 to a JDBP prior to determining the government's portion of that plan for recognition within the financial statements.

2) Definition of an asset – Is there an economic resource

- Under PSAS an assets are defined as "economic resources controlled by a government as a result of past transactions or events and from which future economic benefits are expected to be obtained".

- The resource in question is the accounting accrued benefit asset that arises from applying the accounting guidance in measuring plan assets and the accrued benefit obligation, including the provisions regarding the deferral of unamortized gains or losses. The accrued benefit asset may be very different from any funding surplus calculated under an actuarial valuation performed for funding purposes. Funding valuations may use different actuarial methods and assumptions, such as a provision for adverse deviations. However, under accounting standards it represents the best estimate of the accrued benefit obligation and the fair value of the plan assets, as adjusted for the permitted deferral provisions. Notwithstanding there is a degree of measurement uncertainty regarding both the measurement of the plan assets and the accrued benefit obligation, PS 3250 – the primary source of GAAP for retirement benefit plans – clearly requires that such an asset is recognized for a single sponsored plans. Consistent with the discussion in 1) above, for JDBP plans these requirements are still applicable and this asset should be considered in the context of the plan as a whole, prior to determining what portion of the asset (if any) is the government's share.

- The recognition of an accrued benefit asset for accounting purposes is then subject to the measurement provisions of the valuation allowance guidance (See section on "Measurement" below).

- In addition to the requirement of PS 3250 to recognize an accrued benefit asset, the Panel also noted the following guidance indicates that an accrued benefit asset in a JDBP represents an economic resource that gives rise to future economic benefits:
    - PSAS provides additional guidance on economic resources and future economic benefits in PS 3210, *Assets,* which is effective from April 1, 2017. An economic resource embodies value because it enables an entity to meet its objectives, such as the provision of public goods and services, redistribution of wealth, generation of cash inflows or reduction of cash outflows. An accrued benefit asset in a pension plan is a resource because it can be used to generate future benefits. This view is confirmed by guidance in IPSASB 39.67
    - The economic resource (plan surplus for accounting purposes) can provide future economic benefits to the joint sponsors in the form of a reduction of cash outflows in the future because it can be used to reduce future contributions, as long as the sponsors are expected to be able to access those future contribution reductions (3210.04(a)). This view is confirmed by guidance in IPSASB 39.67

Commented [LD10]: We discuss this access in detail a bit later on.
To consider flow and placement of support some more when drafting final report.
This thought is not quite well enough supported here.

- In a joint defined benefit plan, the sponsors form a control group. When looking at whether the sponsors can access future contribution reductions or a withdrawal of surplus in meeting the asset definition for the plan as a whole the rights of the sponsors collectively should be considered.
- There is considerable case law in Canada addressing single sponsor plans and the ability of that sponsor to either withdraw surplus from the plan or take contribution holidays. Critical to assessing the ability of the sponsor to withdraw surplus or take contribution holidays is the plan text; clear rights within the plan text can support the sponsor's right to withdraw surplus or take contribution holidays. However, when the plan text is not clear, there may be legal uncertainties as to whether the sponsor "owns" the surplus. Withdrawal of surplus by the sponsor is generally subject to regulatory and legal hurdles, such as either approval by the Financial Services Commission of Ontario ~~approval~~accompanied by ~~with~~ a court order, an arbitration award, or an agreement between employer and members for any surplus withdrawal. Therefore under case law it is generally considered that a sponsor does not have a legal right to withdraw a surplus until these hurdles have been passed, unless there is a clear right in the plan text.
- Conversely, if the plan text is not clear on the right of a sponsor to be able to reduce contribution, generally Canadian case law would support that the sponsor has the right and ability to utilize surplus through contribution holidays.
- An analysis of the plan documents for OTPP and OPSEU indicate that in both plans the sponsors negotiate and agree on contribution rates. This means that collectively the sponsors can exercise their shared control to reduce future contributions to the plan and access their portion of the economic resource in the form of future economic benefits. In the case of OTPP the government can benefit from the economic resource through the negotiation process over contributions required to make the actuarial valuation actuarially balanced. Similarly the government can benefit from any OPSEUPP asset through their ability to bargain their 50% of any actuarial gains.
- [SHOULD WE ADD A PARAGRAPH ON PAST HISTORY THAT CONFIRMS IN PRACTICE OUR ITNERPRETATION ABOVE – IE. THE PLAN SPONSORS HAVE BEEN ABLE TO BENEFIT FROM NAY GAINS/SURPLUSES IN THE PAST]

- PS 3320 applies to contingent assets which are defined as "possible assets arising from existing conditions or situations involving uncertainty. That uncertainty will ultimately be resolved when one or more future events not wholly within the public sector entity's control occurs or fails to occur. Resolution of the uncertainty will confirm the existence or non-existence of an asset". The

Commented [LD11]: To Panel: In fleshing out the first section, I felt that these items did not fit well in the "nature of pension plans" section, so suggest moving them here as they relate to the recognition issues. However, would like feedback on whether this revised flow works or these should be moved back.

Commented [UK12R11]: I like it

Commented [LD13]: Question for Murray – is this in the right place?
This sentence was in the bulleted draft, however, not clear whether this relates only to legal uncertainties over the surplus (i.e. withdrawal) or is a more general comment covering contribution holidays. If the latter then it should be moved somewhere else.

Commented [UK14]: I don't think this is correct – the plan text may be a necessary but insufficient requirement. In other words, it is possible that the plan text is abundantly clear, but the way the plan has been communicated to members, the trust has been set up, etc. may still prevent the employer from claiming the surplus. Murray to confirm.

Commented [UK15]: Is bargaining required for this?

implication of a contingent asset is that it is not recognized in financial statements. An accrued benefit asset is not an uncertain economic resource. While there is measurement uncertainty regarding the measurement of an accrued benefit asset due to the necessity of making a number of assumptions regarding demographic and financial actuarial assumptions as well as fair values of plan assets, there is no uncertainty as to whether the plan exists, and therefore over the underlying existence of any estimated accrued benefit asset as an economic resource. PS 3320 notes that "The mere fact that an estimate of an amount is involved (measurement uncertainty) does not, in and of itself, constitute the type of uncertainty that characterizes a contingent asset". The extent of the economic resource become clear as measurement uncertainty is resolved not as future events occur or fail to occur. As such, PS 3320 is not a relevant source of guidance in considering whether an asset exists in respect of an accrued benefit asset.

Panel view

The accounting asset meets the definition of an economic resource because the accrued benefit asset exists and future benefit is available to the sponsors in accordance with the plan documents. There is no existence uncertainty regarding the net pension asset.

3) Definition of an asset - Control

- The definition of an asset under PSAS requires that an economic resource is controlled by a Government. PS 3210.16 expands on this control requirement noting that control exists when a government can benefit from economic resource, when they can deny or regulate access to the resource, and when they are exposed to risks associated with the economic resource.
- An accrued benefit asset in a joint defined benefit plan still meets the asset definition from the perspective of a joint sponsor as the joint sponsor is exposed to risks associated with the resource, since ~~as~~ they are exposed to risk of plan surplus changing from a change in actuarial assumptions or emerging plan experience. The government sponsor may also regulate access to the resource because joint control means that they must agree to any changes to the plan text or contractual arrangement and as such can deny the other sponsor access to the resource to the extent that joint decisions must be made over the use of the asset.
- As noted above in the case of OTPP and OPSEU the government can benefit from the economic resource.

- Shared control means that there is control, but that control over the plan as a whole is exercised through the joint sponsors as a control group. The contractual arrangements for OTPP and OPSEUPP set out how that joint control is exercised, including how surpluses and deficits are dealt with. In the context of PS 3250, the defined benefit guidance is to be applied to each plan, and then the members of control group each pick up their share. This shared control relationship contrasts with participating employers that are not part of the control group, as those employers do are not able to regulate or deny access to the plan assets and therefore cannot control access to the economic resource of a net plan asset.
- By definition, a joint sponsor of a JDBP does not have unilateral control or unilateral rights to the surplus of a JDBP. Instead there is an agreed upon, pre-determined process, with certainty that a conclusion on the use of any surplus will be reached and with the expectation that the outcome of the process will be an equitable sharing of any surplus, as equitable sharing is a key characteristic of a JDBP.
- There are other examples in PSAS where joint control results in asset recognition. PS 3060 requires asset recognition for government business partnerships subject to shared control using the modified equity method. Similarly, PS 3060 requires proportionate consolidation for other government partnerships, which results in a government recognizing a proportionate share of the capital assets held under joint control, for example, even though the government cannot control the use of that asset unilaterally. If a jointly controlled asset cannot meet the recognition criteria for an asset then it would logically follow that no investments in government partnerships could be recognized. As it is, such assets are recognized by governments applying PSAS in their public account. The same logic that shared control can still result in asset recognition should apply to a pension asset of a JDBP.
- PS 3250 does require that there is an existing legally enforceable right to withdraw a surplus. This does not mean that there has to be a legally enforceable right to reduce contributions to the plan in the future in order to have control of the economic resource. Under pension law, withdrawal of pension surplus have different legal characteristics from contribution holidays. The former requires that assets already paid into a trust and for which no claim is clearly retained in the plan document, is reclaimed. The latter, which is also a form of economic benefit, requires that assets are not paid into a trust in the future and that the existing claim on those assets is not given up by the sponsor. This is a distinction established in law, and in the view of the Panel, the requirements of PS 3250 paragraph 59 are intended to be applied to the more complex legal context of surplus withdrawal, rather than a broader context of contribution holidays.

Commented [UK16]: I think this should be rephrased. As written, we are back in the "two separate plans" paradigm, rather than "one plan with joint sponsors".

I have included a paragraph below that might be helpful.

- The economic benefit from any plan surplus can be derived either as a contribution holiday or as surplus assets withdrawn from the plan. Since OPSEU specifically prohibits surplus withdrawal by either of the joint sponsors, and OTPP is silent on the issue of surplus withdrawal, the Panel agreed with the Province and the AG that the joint sponsors cannot avail themselves of any surplus through withdrawal (jointly or separately). However, it is clear both from the plans' documents, as well as from actual practice, that the contribution reductions are available to plan sponsors. While the Panel is of the view that 3250.59 speaks directly to surplus withdrawal only, even if the requirements of that paragraph were to be applied to contribution reductions, the conditions would be met since the joint plan sponsors have the joint right to contribution reductions and holidays as a means to use any surplus assets in the plans.

Panel view

Unilateral control in a JDBP is not a requirement for asset recognition. An asset subject to joint control can still be recognized under PSAS. The joint sponsors jointly control the net pension asset, and can recognize ~~an asset relating to~~ their portion of that jointly controlled asset.

Panel View - Recognition

PS 3250 requires the *recognition* of an asset for the government's portion of the plan surplus for both plans.

Those assets may require a valuation allowance. The measurement of those assets is addressed in the next section.

Measurement issues

Overview of guidance on measurement of an accrued benefit asset

- A primary source of GAAP should apply if it exists. PS 3250 paras 50-59 provides guidance on measuring any accrued benefit asset that results when the plan assets are measured at an amount greater than the accrued benefit obligation. As the guidance on defined benefit plans is applied to JDBPs prior to the government recognizing its portion of the plan, the valuation guidance should also be applied to the plan as a whole, prior to the joint sponsors recognizing their portion of the result.

- If applying the guidance in PS 3250 results in an amount of an accrued benefit asset for the plan after a valuation allowance has been applied, if necessary, then by definition this amount equates to the expected future benefit that the sponsors can access in the plan and would be eligible for asset recognition in the books of the joint sponsor.
- PS 3250 defines an accrued benefit asset as "the amount of any asset recognized on a government's statement of financial position in respect of employee retirement benefits before deducting any valuation allowance that may be required. It is the sum of the government's accumulated cash contributions less the sum of the current and prior years' benefit expenses (before any change in the valuation allowance)."
- Accrued benefit asset is adjusted for any net unamortized losses~~, if any~~, before testing for the valuation allowance to give the adjusted benefit asset. "Adjusted benefit asset is an accrued benefit asset less the amount, if any, by which the aggregate of any unamortized actuarial losses exceeds the aggregate of any unamortized actuarial gains." This is because the net unamortized losses will unwind automatically overtime based on the accounting model in PS 3250. No adjustment is made for net unamortized gains as these would only increase the accrued benefit asset. In the case of OTPP and OPSEUPP there are net unamortized gains, and so the accrued benefit asset equals the adjusted benefit asset.
- PS 3250 requires that the expected future benefit is compared to the adjusted benefit asset
- PS 3250 specifies how the expected future benefit is to be calculated:
  A government determines its expected future benefit as the sum of:

a) the present value of its expected future accruals for service for the current number of active employees, less the present value of required employee contributions and minimum contributions the government is required to make regardless of any surplus; and
b) the amount of the plan surplus that can be withdrawn in accordance with the existing plan and any applicable laws and regulations.

1) Impact of legally enforceable rights on calculation of expected future benefit amount

- PS 3250 ~~uses the phrase~~refers to "expected future benefits". ~~This language indicates that future benefits only have to be expected, they do not have to be certain.~~ Under the standard there are two ways that expected future benefits may be realized – through the withdrawal or surplus or through using the surplus to fund the expense of benefits earned by members in future period – that is, paying lower contributions into the plan in the future, often referred to as a "contribution holiday".

Commented [UK17]: Consider breaking up an polishing. Very difficult to understand right now.

Commented [UK18]: I don't think this sentence is helpful. Again, we are not arguing for a lower standard to recognize assets under two separate plans, rather we are arguing that the joint sponsors have a clear right to benefit from a surplus under a JDBP. The "expected" part, in my mind, refers to measurement.

- The panel did not put any emphasis on expected future benefit arising from withdrawal of plan surplus, as the Provincial Government does not expect to benefit from surpluses through a withdrawal, and there is no explicit right for the sponsors to claim a withdrawal from the plans. In fact OPSEUPP explicitly states that the sponsors are not entitled to have any surplus paid out of the plan, and both OTPP and OPSEUPP plans state that upon wind up any surplus must be used to the benefit of members.
- PS 3250 paragraph 52 notes that the expected future benefits may be impacted if a government is not entitled to benefit fully from those expected future benefits or there are uncertainties as to the legal right to use a plan surplus. Such limitations might occur when there is an explicit requirement~~restriction~~ in the plan text requiring that employers must always match the members' contributions, or contribute a specified dollar amount, or where there is a floor in contribution requirements, which might limit the government's entitlement to benefit fully from future reductions in contributions. However, in the OTPP there is no such restriction. The government match to members' contributions required by the Teachers' Pension Act is to a maximum of the members contributions. The current arrangement that the employers match a prior years' contribution level by members is by agreement of the joint sponsors and may be changed in the future as part of the negotiations to create an actuarially balanced funding valuation. The plan sponsors' contributions can be reduced or eliminated. Similarly, for OPSEUPP the plan text agreed to matching employer/member contributions, but this may also be changed through the exercise of shared control with the other joint sponsor, including reducing them to 0%.
- Ultimately, all the decisions regarding plan contributions and plan benefits rests with the joint sponsors and there are no legal uncertainties regarding the sponsors rights, as joint sponsors, to determine contribution and benefit levels. It is clearly laid out in the legal and contractual arrangements of both OTPP and OPSEUPP.
- PS 3250 paragraph 59 requires a legally enforceable right to exist before an expected future benefit can be recognized for a withdrawal or surplus. The Panel believes that these requirements apply specifically to the expected future benefits of paragraph 56 (b) and not to the amounts calculated in accordance with 56 (a) amounts. Each sentence, excluding the last sentence, in paragraph 59 refers to a withdrawal of assets from the plan. Legally speaking, and consistent with the plan texts of OPSEUPP a contribution holiday is not a withdrawal of surplus - these are two separate concepts.
- The last sentence in paragraph 59 does refer to changes in the allocation of surplus. OTPP and OPSEUPP existing plan documents govern the allocation of surplus or provide the process on to how to agree the allocation of surplus on an

Commented [UK19]: Is this true for OTPP? If so, it would seem to violate 50/50 sharing.

equitable basis. In the case of OTPP, there is no requirement to changes the existing allocation of surplus or the existing rights within the contractual arrangement in order for the government joint sponsor to use their existing rights under the shared control arrangement to negotiate an expected future benefit. In the case of OPSEUPP the surplus is allocated to each joint sponsor the form of their respective stabilization reserve pools. However, as noted above, the Panel is of the view that even if the requirements of paragraph 59 were to be applied to the contribution reductions, the joint plans sponsors would meet the requirements jointly.

Panel View

- A joint sponsor does not have to have a unilateral legally enforceable right to reduce future contributions to have an expected future benefit under paragraph 56 (a). The sponsors jointly must have such right, and in the case of OTPP and OPSEU they do.

2) Calculation of the present value of expected future accruals for service for the current number of active employees

- PS 3250 provides further guidance on how to calculate the present value of expected future accruals for service for the current number of active employees.
- Under this guidance, this amount is determined on a basis consistent with the accrued benefit obligation. The calculation is based on an open group , which is the idea that the current number of employees will exist for perpetuity. This is generally recognized in practice as being an appropriate assumption for the application of this test under PSAS, unless there is an expected significant change in the number of members, for example because a plan is closed to new members or because of a planned restructuring. The panel is not aware of any such changes that are expected for either OTPP or OPSEUPP.
- The guidance notes that in addition to the expected future accrual for service, the expected administrative and investment expenses to be paid out of the plan can been included, if they are not already taken into account in the expected return of assets rate.
- The Panel suggests that the Province might consider to what extent the expenses paid out of the plan could be added to the economic benefit.

3) What are the "minimum contributions the government is required to make regardless of any surplus"

Commented [LD20]: Note – this analysis does not mention the FMP and funding zones etc.
Panel to advise if this should be added in anywhere and if so, where?

- The objective of the test in paragraph 56 (a) is to determine whether a sponsor will be able to obtain expected future benefit from an existing surplus, by reducing their contributions below the expected cost of benefits for future services provided under the plan.
- The purpose of the minimum contributions test is to determine whether there are requirements that would make a sponsor continue to contribute~~ion~~ cash at a certain level, even when there are plan surpluses on funding basis, and thus make it impossible for the sponsor to obtain a reduction in cash contributions to the plan.
- For a single sponsor plan, common practice in Canada under pension legislation is to consider that the sponsor can take a contribution holiday unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan, or if there are other requirements that would force the plan sponsors to continue contributing to the plan even though the surplus was present. The Panel concludes that, following the guidance in PS 3250 that the plan is accounted for as a whole using the Defined Benefit guidance and then the government picks up its portion of the plan, a similar logic should apply to JDBPs – the joint sponsors can take a contribution holiday since there are no restrictions as to the contribution reductions. ~~unless they have made a commitment to match the contributions of the members regardless of any surplus in the plan~~.
- A question arises as to whether the surplus that is contemplated in the phrase "regardless of any surplus" is an accounting surplus or a funding surplus. The panel understands that in practice actuaries interpret this ~~in practice~~ to be funding surplus and not accounting surplus, and that if any contributions are required when there is a funding surplus these would be ~~minimum contributions"~~ minimum contributions the government is required to make regardless of any surplus".
- There is also a question as to whether a joint sponsor can create a minimum contribution requirement on the other joint sponsor because shared control means that both sponsors must agree to any change in contribution levels, therefore absent any agreement the existing contribution levels are "fixed" and cannot be changed. However this view would not be consistent with the notion that the valuation allowance is being applied to the plan as a whole, with the joint sponsors able to collectively control the contribution levels under the plan arrangements. Equal reduced contributions for both members and employers benefit both joint sponsors
- It is relevant to note that as OTPP always requires an actuarially balanced valuation allowance to be filed, there is no funding surplus that arises, as any preliminary funding surplus must be dealt with through the negotiation process. A funding surplus could arise prior to the filing of the next actuarially balanced

Commented [UK21]: Great point!

funding valuation, as this must occur only once every three years. However, the joint sponsors can agree to file a funding valuation every year if they choose, to rebalance the contributions, reserves, and benefits of the plan. As the joint sponsors must agree on the contribution levels and make corresponding changes to the plan text if necessary, there are no "minimum contributions" that must be made, "regardless of any surplus", as there is no minimum level of contributions that must be agreed upon by the joint sponsors. Further, since the OTPP actuarial valuations must be balanced, showing no surplus or deficit, there is also no surplus that is anticipated by OTPP FMP. They can agree to any level of contributions as long as the result in actuarially balanced and so the level of surplus absolutely affects the contributions that are determined by this negotiation process. ~~While it might be expected that some level of contributions will be made in the future to fund the benefits cost of future services, there is no method of determining under the contractual arrangements what this would be, given that the level is subject to negotiation and must be negotiated. As such the "minimum contributions" cannot be determined.~~

- Similarly, for OPSEUPP the stabilization reserves act as limit on the amount of funding surplus that accrued in the plan. Whether these stabilization reserves are used to reduce contributions or are maintained as a buffer is at the discretion of the joint sponsor. This is very similar to the ability that a single sponsor has to reduce contributions or maintain a reserve as a buffer for future changes in actuarial assumptions.

- The Panel noted that a number of calculation regarding the expected future benefit for both OTPP and OPSEU were made, based on different assumptions regarding what were the minimum contributions required under each plan. For example, scenarios included no minimum contributions, minimum contributions as the agreed upon contribution until the next mandatory negotiations in three years; minimum contributions as the currently agreed upon contributions for a longer period; and minimum contributions as the currently agreed upon contributions until certain limited on contributions under the Income Tax Act would be expected to kick in. The Panel view is that in case of OTPP and OPSEU, there are no "minimum contributions regardless of any surplus". ~~These various views exist because the standard does not currently provide clear guidance on how to apply the definition of "minimum contributions regardless of any surplus".~~

- If no expected future benefit to Gov't sponsor, then is also no expected future benefit to joint sponsor. Does this make sense? Is this consistent with public expectations and expectations of the other sponsor?

Commented [UK22]: Not needed – just muddies the issue.

Commented [UK23]: Yes

Panel view - Measurement

- Based on the analysis of the plan arrangements for OTPP and OPSEUPP, there are no ~~the level of~~ minimum contributions required regardless of any surplus. ~~is lower than t~~The present value of expected future accruals for service for the current number of active employees~~. All things being equal this~~ creates sufficient economic benefit~~headroom~~ that could support the recognition of ~~an amount in respect of~~ the net pension asset of OTPP and OPSEUPP.
- ~~Recommendations to province – be mindful that if have a funding surplus and have a legal requirement to continue to contribute could be minimum contributions.~~

Commented [UK24]: I don't think we need this, as it's not currently in play or contemplated.

Recommendations to PSAB Employment Future Benefits Task Force

Commented [LD25]: These are currently in no particular order. Panel to advise as to ranking?

Application of guidance to Joint defined benefit plans

- The Panel notes that the standard ~~is not clear~~would benefit from clarification on how the ability to access expected future benefits should be applied in the context of Joint Defined Benefit Plans. A clarification on how the guidance in PS 3250.81 should be applied (Interpretation A or Interpretation B) would be helpful.

Minimum contributions

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that funding valuations drive decision making over plan funding including contribution increases or reductions by sponsors. However, funding valuations may result in net pension assets or liability that are very different from the accounting net pension asset or liability. This results in a lack of clarity over whether minimum contributions may be made "regardless of any surplus" and whether a sponsor will be able to access an accounting surplus when the funding surplus is much smaller, or is a funding liability. There is some difficulty in determining what are minimum contributions in the context of joint DB plans when future contributions are dependent on the funded status of the plan and negotiation.

Commented [UK26]: Should we also bring the notion of "additional liability" as per IFRIC 14? One could get into this interpretation anyway if the words "regardless of any surplus" were interpreted as accounting surplus. SO perhaps clarity that this is not intended would be good.

- For example, should the minimum contributions test be based on accounting surplus or funding surplus? Is it a present surplus or can it be a projected future surplus? Additional clarity on what constitutes a “minimum contribution” could increase consistency of application of this guidance for joint defined benefit plans [and single sponsor plans?].

Deferral accounting

- In looking at the issues in respect of the OTPP and OPSEUPP the Panel observed that the existing deferral provisions have the potential to result in an asset being recognized on financial statements when there is no underlying economic resource. Although this is not the case for either the OTPP or the OPSEUPP, this could occur when unamortized losses exist such that despite the the fair value of the plan assets being less than the estimated accrued benefit obligation, an accrued benefit asset could still be presented. This can be confusing to users of the financial statements as it is not transparent as to the underlying economic resource of the plan. Transparency is in the public interest. and transparency would suggest that it is important to recognize all liabilities or assets that exist and not to recognize assets where there is no underlying resource that gives rise to future economic benefit. Any mechanisms used to deal with potential income statement volatility concerns should ensure that these do not result in lack of transparency on the balance sheet. [Reference to IPSAS 39]

Discount rates

- The Panel supports PSAB examining discount rates for employment benefits. The Panel understand that in the public sector a sponsor borrowing rate is often used for unfunded plans and an asset return rate is used for funded plans. An appropriate asset return rate will vary depending on how assets are invested. The discount rates used by public sector entities may also be different then the discount rates used in the Plan’s own financial statements prepared under Part IV of the CPA Canada Handbook – Accounting, resulting in significant different measurements of accrued benefit obligations for the same plan in different financial statements. This inconsistency could be confusing to users.

  The Panel observes that many more recent accounting pronouncements relating to liability measurement require that the discount rate used to measure the liability capture the risks inherent in that liability. The panel suggests that the

Employment Benefit Task Force consider whether the method used to settle an obligation should affect how that obligation is measured and how the risks inherent in the obligation are best captured either in the discount rate or in other aspects of the measurement of the obligation.

Commented [UK27]: This seems pretty specific and directional…

Funding valuation

- As a funding valuation may result in a funding surplus or deficit that is very different than the accounting surplus or deficit this may be confusing to some users where both measures are presented in the same document.
- The Panel believes it may be beneficial to include additional discussion in a revised standard or other material about how the objectives and assumptions in funding valuations may differ from those used in the accounting valuation and why.
- The Panel suggests that a disclosure highlighting the quantitative differences in the funding valuation compared to the accounting valuation should be made in the financial statements of pension plans and/or in the financial statements of sponsors when information on the funding valuation of a plan is also made public or available to the same users of the financial statements. This would be useful to users as it would provide additional context for both the accounting and funding valuations.

Commented [LD28]:
Is this going to far?
Otherwise, have to think about how we highlight that this recommendation is to AcSB and not PSAB/Task force.

IN ADDITION, I THINK IT WOULD BE USEFUL TO INCLUDE THE FOLLOWING (LUCY TO DECIDE ON PLACEMENT AS THE NEXT VERSION IS BEING DRAFTED):

- WE NEED A "PLAIN ENGLISH" SECTION. HERE ARE SOME THOUGHTS:

  Both OTPP and OPSEU are joint defined benefit plans, meaning that the joint sponsors (the Province and the OTF/OPSEU) share in risks and costs of the plans equitably. The plans are funded under a separate regimes, which are often deliberately conservative, in order to protect the plans' funded status in case of poor performance. Therefore, it is not surprising that these plans would show considerable surpluses when viewed from an accounting "best estimate" perspective. The additional funding that was made to the plans therefore show up as accounting surpluses. Simply speaking, from an accounting best-estimate perspective, these plans have somewhat more assets than would currently be anticipated as needed to pay out all benefits.

  It is therefore reasonable to expect that the plan sponsors should be able to benefit from lower contribution levels in the future, if the plans indeed find themselves with surplus assets. While the Ontario taxpayers (or teachers/OPSEU members) may not expect refund cheques to be issued from these plans, it would be reasonable for them to expect that fewer contributions will need to be made into these plans if there are surplus assets in them.

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Conversely, all parties would similarly expect that additional contributions will need to be made should deficits emerge.

Indeed, there are established mechanisms by which these expectations can be put into practice. In fact, plans histories show examples of where plan sponsors have benefitted from gains / surpluses in these plans. It is therefore reasonable to expect that the surplus assets in these plans will benefit the joint sponsors in the future as well. In fact, it would be unreasonable, absent any changes, to assume otherwise.

Given that the plan sponsors can be expected to benefit from surplus assets, those assets have real economic value. It would be misleading not to recognize those on the balance sheet of the Province. And given the 50/50% sharing of the JDBPs, 50% would be a reasonable share of the asset to recognize.

- PARAGRAPH ON ACCOUITNING NEEDING TO BE BEST-ESTIAMTE, NOT "CONSERVATIVE" – THIS IS SOMETHING THAT CAME OUT OF OUR MEETING ON FRIDAY. I SUSPECT TRICIA WILL WRITE SOMETHING UP ON THIS
- DO WE NEED A PARAGPRAPH TO RECONCILIE FUNDING VS. ACCOUNTING (BEYOND WHAT I WROTE ABOVE)?
- PARAGRAPH TO OBSERVE THAT AG'S VIEW WOULD LEAD TO A CONCLUSION THAT NO JDBP COULD EVER RECORD AN ASSET BY DEFINITION
- PARAGRAPH TO OBSERVE THAT IF WE ACCEPTED AG'S VIEW THAT THE PROVINCE IS ON THE HOOK FOR DEFICITS, BUT HAS NO ACCESS TO SURPLUS WOULD RESULT IN JDBP CLASSIFICATION BEING INCORRECT.
- PARAGRAPH ON OPSEU ADJUSTMENTS FOR SURPLUS ALREADY USED UP

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APPENDIX A – PENSION PLAN GOVERNING ARRANGEMENTS

OTPP

- The *Teachers' Pension Act*, R.S.O. 1990, c.T.1 (Link to the Teachers' Pension Act);
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The plan text for OTPP;
- An agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Minister of Education and Training and The Ontario Teachers' Federation represented by its Executive, dated July 15, 1991, as amended (The Partners' Agreement);
- A Funding Management Policy, attached as Appendix A to the Partners' Agreement (FMP).

OPSEU

- The Ontario Public Service Employees' Union Pension Act, 1994 S.O. 1994, c 17, s.143 Sched (Link to the Ontario Public Service Employees' Union Pension Act)
- The *Pension Benefits Act (Ontario),* R.S.O. 1990, c. P.8 and the regulations thereunder (Link to the Pension Benefits Act);
- The sponsorship agreement between Her Majesty the Queen in right of the Province of Ontario represented by the Chair of the Management Board of Cabinet and the Ontario Public Service Employees' Union, dated April 18, 1994, as amended (The Sponsorship Agreement);
- The Agreement and Declaration of Trust of OPSEU Pension Plan Trust Fund, dated October 25, 1994, as amended (The Trust Agreement);
- The plan text for OPSEUPP;
- OP Trust Funding policy.

Appendix B - Accounting references

IPSASB 39. 67. A net defined benefit asset may arise where a defined benefit plan has been overfunded or where actuarial gains have arisen. An entity recognizes a net defined benefit asset in such cases because:

(a) The entity controls a resource, which is the ability to use the surplus to generate future benefits;

(b) That control is a result of past events (contributions paid by the entity and service rendered by the employee); and

(c) Future economic benefits are available to the entity in the form of a reduction in future contributions or a cash refund, either directly to the entity or indirectly to another plan in deficit. The asset ceiling is the present value of those future benefits

Appendix C

- Compare to BC and NB plans. Key differences here is that documents, including the contribution rates, can change if agreed upon by joint sponsors.

Commented [LD29]: Current parking lot – to be completed and refined .

Commented [NT30]: o/s need to understand why the AG referred to these – is there a concern that we need to address that we have not yet.

6 - Email - December 19 2016 - Re_ [Not Virus Scanned] RE_ Draft report - Outline v 2.pdf

From: lucy.durocher@ca.pwc.com
To: Uros Karadzic
Cc: Murray Gold (mgold@kmlaw.ca); Tam, Nelson (TBS); Martin, Paul (FIN) (Paul.Martin@gnb.ca); Patricia O"Malley (plomalley@outlook.com)
Subject: Re: [Not Virus Scanned] RE: Draft report - Outline v 2
Date: December-19-16 1:45:10 PM

Thank you everyone for your comments over the weekend. I will take them and work them into the draft of the final report. The quick turnaround from everyone is very much appreciated.

Regards,
Lucy

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From: Uros Karadzic <uros.karadzic@ca.ey.com>
To: Lucy Durocher/CA/ABAS/PwC@Americas-CA, "Murray Gold (mgold@kmlaw.ca)" <mgold@kmlaw.ca>, "Martin, Paul (FIN) (Paul.Martin@gnb.ca)" <Paul.Martin@gnb.ca>, "Patricia O'Malley (plomalley@outlook.com)" <plomalley@outlook.com>
Cc: "Tam, Nelson (TBS)" <Nelson.Tam@ontario.ca>
Date: 12/19/2016 12:19 PM
Subject: [Not Virus Scanned] RE: Draft report - Outline v 2

So it appears I'm the last one in with my comments – here they are.

The draft was excellent, and I think we're well on our way to a good report. In addition to changes and comments I made throughout the document, I have added a few paragraphs in the end that I think we need to address.

Uros

Uros Karadzic, FSA, FCIA | Partner | People Advisory Services

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From: lucy.durocher@ca.pwc.com [mailto:lucy.durocher@ca.pwc.com]
Sent: Thursday, December 15, 2016 11:42 PM
To: Murray Gold (mgold@kmlaw.ca) <mgold@kmlaw.ca>; Martin, Paul (FIN) (Paul.Martin@gnb.ca) <Paul.Martin@gnb.ca>; Patricia O'Malley (plomalley@outlook.com) <plomalley@outlook.com>; Uros Karadzic <uros.karadzic@ca.ey.com>
Cc: Tam, Nelson (TBS) <Nelson.Tam@ontario.ca>

Subject: Draft report - Outline v 2

All,

So I was not joking when I said that I considered "end of day" to be 11:59pm.... (EST!) In fact I'm 20 minutes early...

Please see attached the draft report - outline v 2, which is substantially more filled out, and hopefully captured all the key points of the panel conversations. I have left a number of comments where I am specifically seeking input, but of course please provide input on all aspects of the draft report. Particularly if there are any additional perspectives or thoughts that should be addressed based on outcomes from the meeting with the AG tomorrow.

It has expanded in number of pages, but this is because I put it all in arial 12pt font as instructed by Comms.

Regards,
Lucy

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 [attachment "PENSION ASSET EXPERT ADVISORY PANEL REPORT Draft outline v2 - UK comments.docx" deleted by Lucy Durocher/CA/ABAS/PwC]
