

North Yorkshire County Council

Shareholder Committee

21 March 2023

Border to Coast Governance Documents

Report of the Corporate Director – Strategic Resources

Appendices 1 & 2 to this report contain information of the type defined in paragraph 3 of Part 1 of Schedule 12A Local Government Act 1972 (as amended) as it contains information relating to the business affairs of Border to Coast Pensions Partnership Limited and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

1. Purpose of Report

- 1.1. To describe the background of the Council's part-ownership of Border to Coast Pensions Partnership Limited, a company created to manage the investments of the North Yorkshire Pension Fund.
- 1.2. To recommend approval of the updated governance documents of Border to Coast Pensions Partnership Limited.
- 1.3. To recommend who will be the shareholder representative from 1 April 2023.

2. Background

- 2.1. On 1 November 2016 the Local Government Pension Scheme (Management and Investment of Funds) Regulation 2016 came into force. These Regulations mandate that the 89 separate Local Government Pension Scheme (LGPS) Funds in England and Wales combine their assets into a small number of investment pools.
- 2.2. The associated guidance states that each LGPS administering authority must commit to a suitable pool to achieve benefits of scale. The Secretary of State has direction and intervention powers if he is not satisfied that an administering authority is complying with its obligations in relation to the Regulations.
- 2.3. North Yorkshire County Council (as the administering authority for the North Yorkshire Pension Fund) was actively involved in the development of an investment pooling arrangement, Border to Coast Pensions Partnership (BCPP). Eleven other administering authorities were also involved.
- 2.4. In December 2016 the Secretary of State approved BCPP as meeting the requirements of the 2016 Regulations and associated guidance.
- 2.5. At its meeting on 15 February 2017 the Council decided to formally commit to be a member of BCPP, which at that time was in the process of being incorporated with the name Border to Coast Pensions Partnership Limited. The proportional shareholding of each administering authority including this Council was to be 1/12th.
- 2.6. To give effect to this decision, the Council:

- i. entered into an Inter-Authority Agreement between the Council and the other administering authorities, which describes the establishment of governance arrangements relating to the company
- ii. entered into a Shareholder Agreement between the Council, the other administering authorities and BCPP Ltd, which describes how shareholders exert control over the company
- iii. agreed the Articles of Association to be adopted by BCPP Ltd
- iv. approved the subscription of 1/12th of the shares in BCPP Ltd
- v. approved the establishment of suitable governance arrangements including the BCPP Joint Committee which assists administering authorities with oversight of BCPP
- vi. referred the nomination of the shareholder to the Executive

2.7. The Council also appointed an individual to be the shareholder representative. This is currently Councillor Patrick Mulligan who is a district councillor, Vice Chair of the Pension Fund Committee, and is the district councils' representative on the Committee. Due to Local Government Reorganisation a replacement shareholder representative will be required.

2.8. Where decisions are required, the Council considers that recommendations should be brought to the Shareholder Committee in accordance with the Council's constitution.

3. 2022/23 Review of Governance Documents

3.1. Five years on from the creation of BCPP Ltd a review of the shareholder governance documents was undertaken. This was in recognition of the company moving from being a start-up company to one employing over 100 staff and managing over £40 billion of assets. Changes would be required to reflect a range of issues such as updates to Financial Conduct Authority (FCA) requirements and the merger of two of the BCPP administering authority pension funds, Tyne & Wear and Northumberland.

3.2. The review also considered lessons learned from the first years of pooling with BCPP, arrangements at other pools in the UK and overseas, and arrangements at other local authority owned companies.

3.3. The review process was broken down into four stages:

- stage one identified a long list where changes might be needed, undertaken by a working group of senior administering authority pension fund and legal officers, and BCPP's Chief Executive and compliance officer
- stage two was a review of each of these areas, undertaken by a working group of senior administering authority pension fund, legal and finance officers, administering authority elected member representatives from the Joint Committee, and BCPP's Chief Executive and compliance officer
- stage three was a review of the proposed changes by Squire Patton Boggs acting for the administering authorities, and Eversheds acting for BCPP. Both companies have extensive experience with local authority and investment management industry organisations
- stage four is for each administering authority to take the updated governance documents through their governance processes

3.4. The appointment of Squire Patton Boggs was made by South Tyneside Council as administering authority for the Tyne & Wear Pension Fund, on behalf of the eleven BCPP administering authorities. Their role was to provide advice and ensure the changes were

appropriate and in the best interests of the administering authorities as shareholders in BCPP.

- 3.5. Stages one to three have been completed and stage four is underway. Alongside this process, the Council's Corporate Director – Strategic Resources and the Head of Investments have discussed the changes with BCPP and the other administering authorities and are comfortable with them.
- 3.6. The updated Inter-Authority Agreement (**Appendix 1**), Shareholder Agreement (**Appendix 2**) and Articles of Association (**Appendix 3**) are attached to this report.

4. Shareholder Representative

- 4.1. A change to the shareholder representative will be needed from 1 April 2023. The recommendation is the Shareholder Committee delegate the Council's Chief Executive Officer to nominate an appropriate shareholder representative.

5. Financial, Legal and Other Implications

- 5.1. The updates to the governance documents do not have any financial or legal implications beyond those attached to the decision in 2017 to formally join BCPP Ltd.

6. Recommendations

- 6.1. The Shareholder Committee are asked to approve:
 - i. The updated Border to Coast Pensions Partnership Limited governance documents, being the Inter-Authority Agreement
 - ii. The Shareholder Agreement and the Articles of Association, appended to this report
- 6.2. The Shareholder Committee is also asked to delegate:
 - iii. The Council entering into the two agreements to the Assistant Chief Executive (Legal and Democratic Services).
 - iv. Nomination of an appropriate shareholder representative to the Council's Chief Executive Officer

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8 March 2023

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Appendices
Appendix 1 – Inter-Authority Agreement (confidential)
Appendix 2 – Shareholder Agreement (confidential)
Appendix 3 – Articles of Association