

PENSION FUND COMMITTEE – 10 MARCH 2017

COLLABORATION UPDATE

Report by Chief Financial Officer

Introduction

1. At the Committee meeting on 2 December 2016 the Committee approved the full business case for the setting up of a Financial Conduct Authority (FCA) regulated company to be named Brunel Pension Partnership Limited (BPP Ltd.). This was then ratified by Council on 13 December 2016.
2. In addition to Oxfordshire's approval, the full business case has now been agreed by full council meetings at each of the other 8 Council members of the partnership, and by the Board of the Environment Agency.
3. This report outlines the further work that is now underway to form the company, and the decisions that will be required over the next four months.

Recruitment of the Company Board

4. The first step in forming the new company is to begin the process of appointing the board. Korn Ferry, an executive search agency, have been appointed to carry out recruitment processes, and have embarked on the initial task of organising the recruitment of the Chair and 2 external Non-Executive Directors. An advertisement was placed in the Sunday Times on 16 January, with a deadline for applications of 30 January.
5. The applications received are now being evaluated and it is envisaged that the Chair will be appointed during March, and two Non-Executive Directors will be appointed in April / May. A panel drawn from the Shadow Oversight Board and the Finance and Legal Assurance Group will undertake the final interview process, advised by Korn Ferry and Pricewaterhouse Coopers (PwC).
6. The next step will then be to recruit the Chief Executive Officer. This is a vital role and the newly appointed Chair will need to play a key part in the recruitment process. It is envisaged that this will take place during May. Recruitment of other operational directors and staff will then follow.
7. A key aspect of the recruitment of the Board and key staff will be the contractual arrangements for the appointments, and the company's remuneration policies. These will need to be signed off as the recruitment process progresses. The issues to be determined include the level of pay for the senior staff, and whether BPP Ltd should be an admitted body in the

LGPS. This will in part be influenced by whether TUPE considerations / principles apply to any staff that may be appointed from the current administering authorities. If BPP Ltd. does become an admitted body then a decision will be required as to which Fund admits them.

Legal Agreements

8. A key part of setting up the company will be the agreement of various legal agreements between the ten administering authorities, as shareholders, that govern the operations of BPP Ltd. These documents are being worked on by a Legal Services group comprising representatives of Osborne Clarke, who have been providing legal support to the project, and legal officers from four of the ten authorities, including Oxfordshire. The required documents include the following.
 - a. The **Articles of Association** of the BPP Ltd. (the "Articles"). This document is required by company law, and will set out the constitution of the company and regulate the relationship between the Administering Authorities as shareholders and BPP Ltd. It sets out the powers and procedures of the BPP Ltd., and will be filed at Companies House and be publicly available.
 - b. The **Shareholders' Agreement** between the Administering Authorities. This regulates the relationship between the Funds as shareholders of BPP Ltd. It will define contractually the manner in which the shareholders will run BPP Ltd., rather than limiting the power of the company itself. Some of its content can overlap with the Articles, and there are some provisions which can be moved from one to the other.
 - c. The pooling and asset management services agreement (the "**Services Agreement**"). There will be one agreement between the Funds and BPP Ltd. setting out the pooling and other services BPP Ltd. will perform and the relevant terms.
9. These documents will need to be agreed by each of the ten administering authorities under the delegation arrangements in place, to enable BPP Ltd. to become operational. The Articles and the Shareholders' Agreement are likely to be agreed in interim form at the outset. They will include details of reserved matters that cannot be changed without the agreement of shareholders, and for each reserved matter what level of agreement (e.g. simple majority, 75% of shareholders, or unanimous agreement) is required for a change to be made. Reserved matters would include significant issues such as the admission of a new shareholder or a move to internal management of assets.
10. Other documents. There will be various other documents of importance to the structure and governance arrangements. These include terms of reference, the terms of appointment of key personnel, BPP Ltd.'s internal policies and agreements with third party providers of back office support. This will include the terms of reference of the Oversight Board.

11. Once the Shadow Oversight Board loses its shadow status and becomes a formal body, the Oxfordshire Fund will need to formally appoint a representative to serve on it. In addition, while the Pension Fund Committee will continue to have a key role in monitoring the performance and activities of BPP Ltd. for practical purposes an individual will need to take responsibility to make shareholder decisions for Oxfordshire County Council. It is proposed that these appointments are made by the first meeting of the Pension Fund Committee following the Annual Meeting of the new Council in May.

Appointment of Administrator

12. Each LGPS Fund employs a custodian bank to safeguard its investment assets and process transactions. The Oxfordshire Fund currently use BNP Paribas as their custodian. Going forward BPP Ltd. will need to appoint a custodian. However, the nature of the business they will be undertaking and the requirement for FCA regulation will mean that the role will be wider than the custodian's current role. As a result, the role is defined by the FCA as an "administrator" rather than a custodian, as it encompasses other tasks beyond the custodian role.
13. The administrator will need to be in place before the FCA will authorise BPP Ltd to operate. Therefore the administrator needs to be appointed before the application for authorisation is made to the FCA. Work is under way to draw up the specification for an invitation to tender, which will need to be signed off by 1 April. This should then enable the administrator to be appointed by the target date of the 1 August. Any delay is likely to delay the application for FCA authorisation.

Budgeted Costs 2017/18

14. Project costs on the development of the proposals have been split equally between the ten authorities on the basis of 10% each. For the 2017/18 financial year a budget for the project of £680,000 (£750,000 including an unallocated sum) has been agreed by the Shadow Oversight Board and the Finance and Legal Assurance Group. This equates to £68,000 (£75,000) per Fund. Any significant variance against individual budget items will need to be signed off by each Fund through their Section 151 Officer.
15. However, this only includes the project costs, not the running costs of BPP Ltd, once the company is established. This will be dependent on the remuneration policies agreed, the results of the administrator procurement and other contractual arrangements still to be determined. The full business case allowed for total costs of around £4m for 2017/18, plus the provision of £2m working capital. A pricing policy is being developed for charging the ongoing overhead running costs of BPP Ltd. These will not be charged purely on equal shares, but will be partly based on the total Assets Under Management (AUM), and on any additional services that the Fund may use over and above the core service.

Conclusion

16. Decisions on the issues listed above will be required over the next four months in order to achieve the timeframe required by Government, such that BPP Ltd. can be established, achieve FCA authorisation and begin to transition assets from 1 April 2018. Under the resolution agreed by this Committee and the full Council, delegated authority has been given to both this Committee and the Chief Legal and Finance Officers to take such decisions deemed necessary to support the implementation of the business case.
17. At this time it is not certain when the key decisions on appointments, remuneration policies, legal documents and third party tenders will be required. The Committee are invited to consider whether they are happy to leave all such decisions to be delegated to the Director Chief Legal Officer and the Chief Finance Officer (following consultation with relevant members as appropriate) or whether they would wish to call a special meeting of this Committee to consider all or any of these items.
18. Any decision to call a special meeting of this Committee will be subject to the timing of such a meeting. Consideration will need to be given to any proposed meeting during the period of purdah prior to the election. There will also be a period following the election when the old Committee has stood down and the new Committee not yet determined.

RECOMMENDATION

19. **The Committee is RECOMMENDED to note the position in respect of key decisions to be taken over the next few months, and determine which decisions if any should be subject to a special meeting of this Committee if the timescales so allow.**

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