



BCP Council Constitution

Shareholder Advisory Board and the Shareholder Operations Board Governance Framework

September 2024

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Purpose

1.1 The Shareholder Advisory Board has been established specifically to discharge the shareholder functions of the Council, in relation to those companies of which the Council is a shareholder.

The Shareholder Operations Board has been established to provide strategic management of the Council companies and will advise and make recommendations to the Shareholder Advisory Board.

The SAB and SOB have been established to advise on the activities of all Council companies as defined in section 1.5 below.

1.2 The shareholder in this context is always the Chief Executive of BCP Council or BCP Council, not the members of the Shareholder Advisory Board themselves, or any Directors appointed to represent the Council on the boards of these companies.

1.3 The Shareholder Advisory Board does not have day-to-day operational control over any of the companies of which the Council is a shareholder. It is the responsibility of the Shareholder Advisory Board to:

- formulate policy direction for Council companies prior to formal consideration and adoption by Cabinet, including
- to consider proposals from the Shareholder Operations Board for the creation, liquidation, disposal and acquisition, appointment of directors, annual business plan, governance and financing; of any Council company noting that some of these functions may require Cabinet approval and
- to receive and consider reports on company performance.

The Shareholder Operations Board has the following responsibilities:

- To support the Shareholder Advisory Board;
- To oversee the implementation of decision by Cabinet concerning Council Companies;
- To oversee the commissioning of work from Council Companies;
- To oversee the due diligence upon and validation of the business plan received from Council companies prior to presentation to the Shareholder Advisory Board;
- To oversee funding arrangements for Council companies;
- To oversee the performance of Council companies.

1.4 All decisions regarding the day-to-day operation of each company are the responsibility of the Board of Directors of each company.

Each Board of Directors will include:

- a) “**Council Directors**” who for the purposes of this document are the non-executive (i.e., non-salaried) directors appointed by the Chief Executive in accordance with the Articles and/or Shareholder Agreement of the Company, to represent the Council on the Board of directors. This category will often (but not always) include the Chair of the Board of directors; and
- b) “**Non-Council Directors**” who for the purposes of this document include the executive (i.e., salaried) directors and the independent non-executive directors appointed by the Board. This category will include the Managing Director of the company.

In addition, the day-to-day liaison with the companies will be between the relevant client service of the Council and the Managing Director of each company.

1.5 There are two classifications of companies, which the Shareholder Advisory Board and the Shareholder Operations Board regularly deals with:

1.5.1 “*Teckal Companies*” – these are companies that meet all of the following three criteria:

- a) There is no direct private capital participation in the company; in other words, either:
 - i. the Council is the sole shareholder in the company; or
 - ii. the shareholders are made up exclusively of public sector bodies, including the Council.
- b) The Council (either acting as the sole shareholder, or together with the other public sector owners) exercises effective control over the company’s affairs; in other words, the same as the relationship between the Council (and the other public sector owners where applicable), and one of their internal directorates.

- c) The company must be inward not outward focussed; in other words, at least 80% of the activity of the company – that is, over 80% of its turnover – must be for the Council, and where applicable its other public sector owners.

1.5.2 “*Non-Teckal Companies*” – these are companies that fall outside the definition of a Teckal Company, as summarised above.

Due to their very nature, Teckal Companies require a much greater deal of oversight from the Shareholder Advisory Board and the Shareholder Operations Board than their NonTeckal counterparts do.

For clarification, BCP Councillors will not be appointed by BCP Council to Boards of Council Companies.

Meetings of the Shareholder Advisory Board

2.1 The Shareholder Advisory Board and Shareholder Operations Board will hold the following Meetings each year, each for the following purpose:

Purpose of Meeting	Frequency of Meeting	Does this apply to Teckal Companies?	Does this apply to Non-Teckal Companies?

To receive annual reports and annual accounts from companies	Once per year	Yes	Yes
Performance Monitoring (subject to any alternative monitoring requirements set out within any Shareholder Agreement or contracts for goods/services/ works with the company)	Twice per year, as a minimum.	Yes	Yes (once per annum)

2.2 The Shareholders Advisory board will also consider, on a regular basis and at least every two years, the need for the continued operation of the Council company.

Any other Meetings of the Shareholder Advisory Board and the Shareholder Operations Board will be called as and when required to deal with company business.

2.3 Minutes, Notices and Agenda of Shareholder Advisory Board and the Shareholder Operations Board Meetings shall be sent to the respective Board members at least 5 working days prior to the Meeting. Administrative support to be given by the Executive Hub.

Composition of the Shareholder Advisory Board

3.1 The Shareholder Advisory Board core membership is as follows:

- Leader of the Council (Chair of the Board)
- Cabinet Member for Finance
- Cabinet Member for Transformation, Resources & Governance
- Chief Executive
- Chief Operations Officer

- Director of Finance or Deputy
- Director of Law and Governance or Deputy
- Corporate Director of Wellbeing
- Corporate Director of Children's Services

Other Portfolio Holders, Officers and Portfolio Leads may be invited to attend specifically for items that fall within their remit, present reports, or otherwise support the meeting as required.

3.2 Composition of the Shareholder Operations Board

3.2.1 The Shareholder Operations Board is an officer only Board and its core membership is as follows:

- Chief Executive (Shareholder Representative)
- Chief Operations Officer
- Director of Finance or Deputy
- Director of Law and Governance or Deputy
- Corporate Director of Wellbeing
- Corporate Director of Children's Services

In respect of the Shareholder Advisory Board there must be a minimum attendance of at least one Councillor and one Corporate Director at each meeting, there is no provision for substitutes or deputies unless otherwise stated in the membership above.

In respect of the Shareholder Operations Board, there must be a minimum attendance of the Chief Executive or the Chief Operations Officer, plus the Director of Finance or their Deputy and the Director of Law & Governance or their Deputy. The Chief Executive will chair meetings of the Shareholder Operations Board.

Other Officers and Commissioning Teams may be invited to attend specifically for items that fall within their remit, present reports, or otherwise support the meeting as required.

3.3 A number of BCP Council Officers will have the specific responsibility for commissioning, transacting and day to day management of arrangements with the council company. For the purposes of this document these Officers will be referred to as “Link Officers” A Link Officer will be nominated for each company and will undertake the activities set out in Annex 1. The Link Officer in relation to each company will attend meetings of the Shareholder Advisory Board as and when required.

BCP Council responsibility as a Shareholder if its Council Companies

4.1 Subject to any relevant overriding provisions contained in a company's Shareholder Agreement or within a company's Articles of Association, the Shareholder Advisory Board and the Shareholder Operations Board are collectively established to undertake all of the following functions of the Council as a shareholder under the Companies Act 2006 by:

	Function	Teckal Companies	Non-Teckal Companies
a)	acting as the owner or joint owner of the Council's companies;	✓	✓
b)	approving or making amendments to strategic or	✓	

	Function	Teckal Companies	Non-Teckal Companies
	business plans;		
c)	monitoring performance and financial delivery against strategic business plans;	✓	
d)	approving the acquisition of shares in another company;	✓	
e)	approving the establishment of subsidiary companies;	✓	
f)	approving the appointment or dismissal of any company Directors (including the Chair), which requires Shareholder consent under the Articles and/or Shareholder Agreement of the company;	✓	<p>✓</p> <p>In so far as it requires a resolution of the Council and any other shareholders of the company.</p>

g)	determining and approving all matters relating to terms and conditions of company Directors which require Shareholder consent under the Articles and/or Shareholder Agreement of the company;	✓	✓ In so far as it requires a resolution of the Council and any other shareholders of the company.
h)	determining and approving all matters relating to the entering of any contracts with company Directors, other than as permitted under any service agreement the company may have with the Council;	✓	✓

	Function	Teckal Companies	Non-Teckal Companies
i)	determining and approving all matters relating to the employment of the senior management team of the company which require Shareholder consent under the Articles and/or Shareholder Agreement of the company;	✓	

j)	approving changes to share capital and the admission of additional shareholders;	✓	<p>✓</p> <p>In so far as that it relates to:</p> <ul style="list-style-type: none"> • any instruction to the Directors to allot shares; • any increase in the authorised share capital of the company; • any reduction in the authorised share capital of the company; • any sub-division, consolidation, or redenomination shares; • variation of class rights attached to shares;
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	Function	Teckal Companies	Non-Teckal Companies
			<ul style="list-style-type: none"> any purchase of shares by the company itself; any alteration to the company's Articles of association relating to pre-emption rights, or relating to the shares of the company; or any disapplication of pre-emption rights, <p>or any other matter that requires a resolution of the Council and any other shareholders of the company by law or otherwise.</p>

k)	approving disposals of assets valued under £500,000;	✓	✓ In so far as it relates to a Substantial Property Transaction (as defined in the Companies Act 2006) with one of the Directors (or a connected person of that Director), and therefore requires a resolution of the Council and the other members of the company.
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	Function	Teckal Companies	Non-Teckal Companies
	approving borrowing up to £100,000;	✓	<p>✓</p> <p>In so far as the financial assistance being sought is:</p> <ul style="list-style-type: none"> • by one of the Directors, or • by persons connected with one of the Directors, or • by the company to purchase its own shares, <p>and therefore requires a resolution of the Council and any other shareholders of the company.</p>
m)	approving and making grants or loans up to £500,000 other than by way of normal trade credit, subject to approval from the Council's Chief Financial Officer in line with the Council's Financial Regulations, and taking appropriate legal advice on any requirements under the UK	✓	<p>✓</p> <p>In so far as the financial assistance being sought is:</p> <p><input type="checkbox"/> by one of the Directors, or</p>

	Function	Teckal Companies	Non-Teckal Companies
	Subsidy Control Regime and necessary grant or loan terms and conditions, and the usual risk assessments;		<ul style="list-style-type: none"> by persons connected with one of the Directors, or by the company to purchase its own shares, <p>and therefore requires a resolution of the Council and any other shareholders of the company.</p>
n)	entering, amending or terminating any agreements which create a potential liability for the company in excess of £250,000 up to £500,000;	✓	

o)	making changes to the nature of the company's business;	✓	✓ In so far as that it relates to: <ul style="list-style-type: none"> • amendments to the company's Articles of Association or Shareholders Agreement; • re-registering the company from private to public (or vice versa) or limited to unlimited (or vice versa).
	Function	Teckal Companies	Non-Teckal Companies
p)	approving a decision which could otherwise be taken by a Council Director, but which would, if being taken by the Council, amount to a key decision;	✓	
q)	approving any dividends requiring Council consent;	✓	✓
r)	exercising any powers to issue instructions to company directors;	✓	✓ In so far as it requires a resolution of the Council and any other shareholders of the company.

s)	exercising decision making over reserved matters set out in a company's Shareholder Agreement;	✓	✓
t)	making recommendations to Executive for any investment in/asset transfers to or lending to companies;	✓	✓
u)	delegating specific functions to Officers of the Council to increase commercial flexibility.	✓	

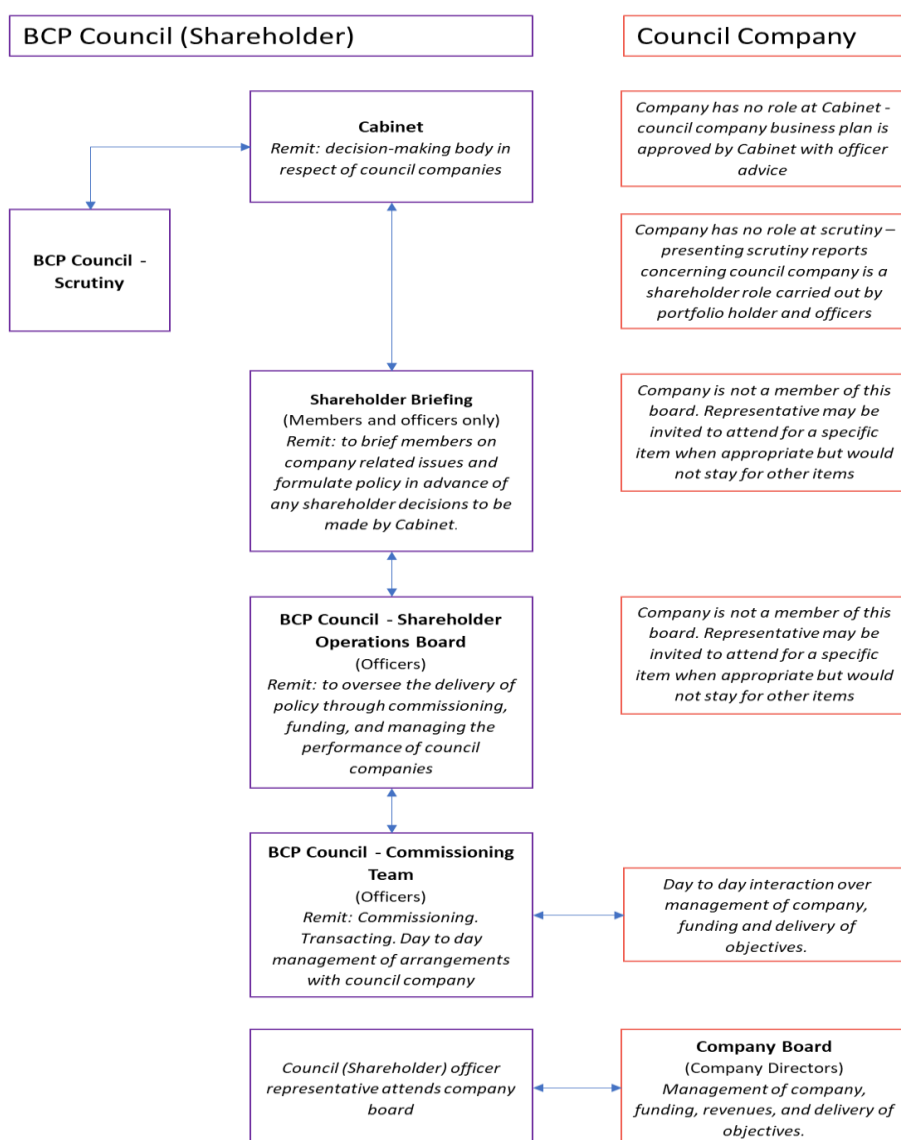
Any advice required by Shareholder Advisory Board and the Shareholder Operations Board in relation to the above and the impact of any provisions within a company's Articles of Association or any existing Shareholder Agreements must be sought from the Council's Legal Services Department.

Delegated powers

5.1 Collectively the Shareholder Advisory Board and the Shareholder Operations Board have the delegations required to effectively support the Cabinet and Council to make all decisions in respect of Council companies.

The following outlines the Council's Shareholder Governance Arrangements.

Appendix 1 Shareholder Governance Arrangements



**please note that the reference above to “BCP Council – Commissioning Team” has now been replaced with “Link Officers”*

ANNEX 1: Link Officers

1. Each company shall have a nominated BCP Council client officer ('Link Officer') who will engage monthly (or more frequently as required) with that company to ensure that Shareholder Advisory Board and or Shareholder Operations Board is provided with:
 - a) Updates in respect of company performance, market conditions and assurance
 - b) Details of strategic plans, funding and other requirements
 - c) Sufficient information to evaluate any new business proposals
2. The Link Officers will review reports from their nominated company before they are submitted to the Shareholder Advisory Board and Shareholder Operations Board, liaising with finance, legal or other colleagues as necessary maintain joint risk registers as required and ensure the respective Boards are provided with the level of detail and analysis required to fulfil its role.
3. Link Officers are required to:
 - a) Actively communicate and collaborate with the company and BCP Officers as required, including the Chief Executive, Director of Finance and the Director of Law & Governance or their nominated representatives.
 - b) Build and maintain effective and transparent relationships with all parties.
 - c) Actively work to promote and improve good working relationships between the Council and its companies.
 - d) Take appropriate action to avoid conflicts of interest and, where a potential conflict is identified, to assist in managing any such conflict.
 - e) Ensure that the company has the appropriate level of support and challenge, including support to deliver the agreed objectives and priorities for the Council and challenge to minimise or mitigate any risk to the Council. The appropriate balance of challenge and support will depend on the company objectives, the nature of the relationship with the company (i.e. whether wholly or partly owned), performance and risks or opportunities.
 - f) Manage and maintain effective relationships between shareholder representatives and the company.

- g) Appropriately feedback any concerns of the Council to the company and vice versa.
- h) Review board decisions and actions and identify any concerns in relation to directors potentially exceeding the remit of their powers.
- i) Flag any issues and risks as quickly as possible.