
PROPOSED AMENDMENT TO SCHEME OF ADMINISTRATION

Report by The Chief Executive

SCOTTISH BORDERS COUNCIL

26 August 2021

1 PURPOSE AND SUMMARY

- 1.1 This report proposes changes to the functions referred to the Major Contracts Governance Group. It seeks to clarify the arrangements for Elected Member oversight of the CGI contract and proposes the monitoring of the Live Borders agreement sits wholly with the Executive Committee.**
- 1.2 At its meeting on 17 December 2020, Scottish Borders Council approved a Motion from Councillor Thornton-Nicol requesting officers provide a report to Council with amendments to the Scheme of Administration to specify the remit of the Major Contracts Governance Group in respect of the performance of the Live Borders agreement and the CGI contract. This would give clarity to Elected Members as to their monitoring role on the Group.
- 1.3 The current functions delegated to the Major Contracts Governance Group (MCGG), a sub-committee of Council, relate mainly to the monitoring of the Council only significant trading organisation SB Contracts. There is also an overview role for the Group with respect to the contract with CGI and the management agreement with Live Borders. The present scheme of administration provides no detail on how this function should be carried out.
- 1.4 Officers have looked at a number of options for consideration to provide clarity and further detail for Members when monitoring the Live Borders Agreement and the CGI contract. These options are:
 1. Enhance the functions of the Major Contracts Governance Group to give explicit detail for Members to monitor CGI as well as SB Contracts performance and move Live Borders monitoring to the Executive Committee.
 2. Amend the functions of the Major Contracts Governance Group to generalise the monitoring of SB Contracts, Live Borders, and CGI.
 3. Reinstate the Trading Operations Sub-Group to monitor SB Contracts, transfer the monitoring of the Live Borders agreement and CGI contract to the Executive Committee and disband the Major Contracts Governance Group.

2 RECOMMENDATIONS

- 2.1 It is recommended that Council approves changes to the functions referred to the Major Contracts Governance Group as set out in Option 1 detailed in Section 4 of the report and that the necessary amendments are made to the Scheme of Administration.**

3 BACKGROUND

- 3.1 At its meeting on 17 December 2020, Scottish Borders Council approved the following Motion from Councillor Thornton-Nicol, seconded by Councillor Bell:

“That Scottish Borders Council requests Officers bring a report to Council to amend the current Scheme of Administration as it applies to the functions referred to the Major Contracts Governance Group. This amendment would provide detail as to the particular matters the Group would monitor in respect of the performance of the Live Borders contract and the CGI contract, and would give clarity to Elected Members as to their monitoring role in the Group.”

- 3.2 The MCGG was formed when the Council set up SB Cares as an ALEO, with the Group also tasked with monitoring SB Contracts. This function was previously carried out by the Trading Operations Sub-Committee. Some monitoring of the agreement with Live Borders was also included within the MCGG.
- 3.3 The current functions delegated to the Major Contracts Governance Group, a sub-committee of Council - detailed in Section III of the Scheme of Administration - relate mainly to the monitoring of SB Contracts.

SB Contracts

1. The consideration of matters relative to business management of trading services including providing an appropriate level of scrutiny on the financial risk arising from trading operations.
2. The monitoring of the trading arrangements and operations in terms of the Local Government (Scotland) Act 2003.
3. The evaluation of financial controls and the detailed monitoring of financial and performance levels for trading services.
4. The evaluation of Financial Plans for delivering required performance levels from trading services.
5. Consideration of the strategic model employed by trading services, and to contribute towards the long-term strategic development process.
6. Consideration of matters relative to tendering for internal and external contract works.
7. The determination of appropriate processes and practices, within overall Council policy, to support the efficient and effective development of trading powers.
8. To understand the trading risk exposure and to evaluate measures to manage the trading risk-reward balance.

9. The consideration of Joint Arrangements with suppliers or other parties to improve the effectiveness and/or efficiency of the trading organisation.

Agreements

10. The overview of Agreements with other Trusts, Outside Bodies, etc. providing services on behalf of the Council.

Significant Contracts

11. The overview of any other significant contracts

- 3.4 Items 10 and 11 relate respectively to the Agreement with Live Borders, and the CGI contract. The current agreement with Live Borders includes a requirement that performance reports are presented to only one committee of the Council. Performance data from Live Borders is currently included in the quarterly performance monitoring reports to the Executive Committee.

4 OPTIONS FOR CHANGE

- 4.1 Officers have looked at a number of options for consideration to provide clarity and further detail for Members when monitoring the Live Borders Agreement and the CGI contract. These options are:
 1. Enhance the functions of the Major Contracts Governance Group to give explicit detail for Members to monitor CGI as well as SB Contracts performance and move Live Borders monitoring wholly to the Executive Committee.
 2. Amend the functions of the Major Contracts Governance Group to generalise the monitoring of SB Contracts, Live Borders, and CGI.
 3. Reinstate the Trading Operations Sub-Group to monitor SB Contracts, transfer the monitoring of the Live Borders agreement and CGI contract to the Executive Committee and disband the Major Contracts Governance Group.

Option 1

- 4.2 The Major Contracts Governance Group could be enhanced to give explicit details for Members for SB Contracts and CGI. With regard to Live Borders, the agreement with the Council is currently being reviewed but it does specifically state that Live Borders will report to only one Committee of Council. To ensure consistency with the monitoring of other public facing services it is proposed that performance monitoring information for Live Borders is included within the remit of the Executive Committee, to be reported along with service provision performance information for those services directly provided by the Council. This information would be reported quarterly to the Executive Committee. Reports to the MCGG on the CGI contract have developed significantly over the last year and the group is considered to be providing effective challenge and scrutiny of the CGI contract. The new functions would therefore be proposed as:

SB Contracts

1. The consideration of matters relative to business management of SB Contracts including providing an appropriate level of scrutiny on the financial risk arising from trading operations.

2. The monitoring of the trading arrangements and operations in terms of the Local Government (Scotland) Act 2003.
3. The evaluation of financial controls and the detailed monitoring of financial and performance levels for SB Contracts.
4. The evaluation of Financial Plans for delivering required performance levels from SB Contracts.
5. Consideration of the strategic model employed by SB Contracts, including contributing towards the long-term strategic development process.
6. Consideration of matters relative to tendering for internal and external contract works.
7. The determination of appropriate processes and practices, within overall Council policy, to support the efficient and effective development of trading powers.
8. To understand the trading risk exposure and to evaluate measures to manage the trading risk-reward balance.
9. The consideration of Joint Arrangements with suppliers or other parties to improve the effectiveness and/or efficiency of the trading organisation.

CGI

10. The consideration of any major proposed changes to the CGI contract, with recommendations to Council as necessary.
11. The regular consideration of performance information on the transformation being delivered with CGI, key performance information with respect to the contract and any key issues associated with contract management.
12. The scrutiny of the performance of the CGI contract to ensure value for money and the effective delivery of outcomes required by the Council.

Live Borders (to be added to the functions of the Executive Committee)

- *1. The consideration of the any proposed contractual changes to the Agreement with Live Borders.
2. The regular consideration of performance against the Live Borders Business Plan actions and initiatives.
3. The scrutiny of the financial performance of Live Borders in terms of the conditions of grant by Scottish Borders Council to ensure value for money and the effective delivery of outcomes required by the Council.
- *4. Consideration of any future proposed changes to service provision by Live Borders, with recommendations to Council as necessary.

Option 2

- 4.3 The current functions delegated to the Major Contracts Governance Group could be replaced so that general monitoring of SB Contracts, the CGI contract and the agreement with Live Borders – and any future contracts – are undertaken as follows:
1. The consideration of matters relative to business management of SB Contracts, CGI and Live Borders.
 2. The monitoring of the service performance information and operations of SB Contracts and CGI in terms of the Local Government (Scotland) Act 2003. (Note: Service performance information for Live Borders will continue to be considered by the Executive Committee)
 3. The scrutiny of the financial performance of SB Contracts, CGI and Live Borders to ensure these arrangements continue to deliver good value for money.
 4. The evaluation of service performance information and the scrutiny of the effective delivery of the outcomes required by the Council.
 5. The evaluation of the effectiveness of operating arrangements and their contribution to the Council's strategic objectives.
 6. The scrutiny of any amendments proposed to the management and/or contractual arrangements associated with SB Contracts, CGI and Live Borders.
 7. Consideration of matters relative to tendering for internal and external contract works where applicable.
 8. The determination of appropriate processes and practices, within overall Council policy, to support the efficient and effective delivery of services provided by SB Contracts, CGI and Live Borders.
 9. Scrutiny of the arrangements in place to ensure the effective management of financial and operational risks associated with those services that sit within the remit of the sub-committee.
 10. The consideration of Joint Arrangements with suppliers or other parties to improve the effectiveness and/or efficiency of service delivery.
 11. The overview of Agreements with other Trusts, Outside Bodies, etc. providing services on behalf of the Council.
 12. The overview of any other significant contracts.
- 4.4 With regard to Live Borders, the agreement with the Council is currently being reviewed. Compliance with the terms of the agreement could be included within the remit of the Major Contracts Governance Group (as above), but service provision performance information could continue to be reported quarterly to the Executive Committee, as is currently the case.

Option 3

- 4.5 One further option is to consider whether there is still a need to continue the Major Contracts Governance Group. It was primarily established to monitor the SB Cares ALEO along with SB Contracts. The agreement with Live Borders, although currently being reviewed and renewed, allows for Live Borders to report to only one committee of Council. Performance of Live Borders is already currently reported to the Executive Committee in its quarterly performance reports. The same could happen with CGI performance and it could also report to the Executive Committee. The Trading Operations Sub-Committee could be reinstated as a sub-Committee of Executive to monitor SB Contracts and the Major Contracts Governance Group could be disbanded.
- 4.6 Additional functions could then be added to the Executive Committee in the Scheme of Administration as follows:
1. The review of the financial performance of the Live Borders agreement and CGI contract to ensure these arrangements continue to deliver good value for money.
 2. The approval of any amendments proposed to the management and/or contractual arrangements associated with Live Borders and CGI.
 3. The evaluation of service performance information and the scrutiny of the effective delivery of the outcomes required by the Council of Live Borders and CGI.
 4. The overview of Agreements with other Trusts, Outside Bodies, etc. providing services on behalf of the Council.
 5. The overview of any other significant contracts.
- 4.7 By moving the functions of the Major Contracts Governance Group to the Executive Committee, Elected Members will have the opportunity – should they feel it necessary – to use the call-in procedure to refer any decision of Executive to the Audit & Scrutiny Committee for further consideration. Due to the breadth of other performance data submitted to the Executive committee it is questionable however how much time could actually be devoted to the effective scrutiny of the CGI contract alongside other agenda items.

Conclusion

- 4.8 It is felt that option 1 provides the optimal solution ensuring effective review and challenge of the CGI by the MCGG can continue and ensuring this important function is not crowded out by the weight of other items on the Executive Committee Agenda.

5 IMPLICATIONS

5.1 Financial

There are no costs attached to any of the recommendations contained in this report.

5.2 Risk and Mitigations

There is a risk that Councillors will not be able to fully monitor the contracts referred to the Group without sufficient detail within the Group's remit. By extending the remit this risk is mitigated as Members will have a baseline established for monitoring.

5.3 Integrated Impact Assessment

No Integrated Impact Assessment has been carried out. It is not anticipated that amending the remit of the Group will have an impact on people who share a characteristic (age, disability, gender re-assignment, trans/transgender identity, marriage or civil partnership, pregnancy and maternity, race groups, religion or belief, sex-gender identity, and sexual orientation) and those who do not.

5.4 Sustainable Development Goals

In considering each of the UN Sustainable Development Goals, the Group can ensure within its monitoring role that the following are being considered:

- End poverty in all its forms – ensure inclusion within service provision (CGI, Live Borders)
- Ensure healthy lives and promote wellbeing for all at all ages – intrinsic to service provision by Live Borders.
- Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all potential – CGI
- Achieve gender equality and empower all women and girls – SB Contracts, CGI, Live Borders
- Build resilient infrastructure – identify gaps in access to IT and the internet in communities (CGI)
- Reduce inequalities – provide services in a non-discriminatory way (SB Contracts, CGI, Live Borders)
- Ensure sustainable consumption and production patterns – have sustainable procurement policies and conditions; have short supply chains where possible (SB Contracts, CGI, Live Borders)
- Strengthen the means of implementation and revitalise the global partnership for sustainable development – by encouraging partnerships between public and private sector and communities (CGI, Live Borders)

5.5 Climate Change

In terms of infrastructure and land use, Live Borders provides local amenities and opportunities for recreation, and health and wellbeing benefits. SB Contracts endeavours to take account of any likely climate changes/weather events as part of its works programme.

5.6 Rural Proofing

There is no separate rural impact from the proposals in this report.

5.7 Data Protection Impact Statement

There are no personal data implications arising from the proposals contained in this report.

5.8 Changes to Scheme of Administration or Scheme of Delegation

Changes will be required to the Scheme of Administration which is included within the recommendation in the report.

6 CONSULTATION

- 6.1 The Monitoring Officer/Chief Legal Officer, the Chief Officer Audit and Risk, the Service Director HR & Communications, and Corporate Communications have been consulted and any comments received have been incorporated into the final report.

Approved by

Netta Meadows

Chief Executive

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Background Papers: None

Previous Minute Reference: Scottish Borders Council, 17 December 2021

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