



Open Report on behalf of Andrew Crookham, Executive Director - Resources

Report to:	Pensions Committee
Date:	1 December 2022
Subject:	Border to Coast Governance Review

Summary:

This report presents the outcome of the governance review undertaken on the key company documents of Border to Coast to the Committee, for consideration. The amended Inter-Authority and Shareholder Agreements will be taken to Full Council for approval in the Council's role as the administering authority. The amendments to the Articles of Association will be approved through a resolution to shareholders.

Recommendation(s):

That the Committee consider and discuss the report, and

- 1) approve, subject to satisfactory clarification of queries raised, and provide feedback on the Inter-Authority and Shareholder Agreements to be reported to Full Council; and
- 2) provide feedback to the Executive Director of Resources, in his role as shareholder, on the amendments to the Articles of Association.

Background

1. As the Committee are aware, Border to Coast was created in 2017 to act as the asset pool for Lincolnshire Pension Fund and eleven other LGPS funds. It is five years since Border to Coast was established, and the initial governance framework approved by the shareholders. In Lincolnshire's case, this was by Full Council as the administering Authority is the shareholder, with the Pensions Committee's role being that of the investor.
2. Since then, the business has matured (as of the end of March 2022 it was responsible for managing c. £38bn of Partner Fund assets), Tyne and Wear and Northumberland pension funds have merged, there has been regulatory change, and best practice with respect to both corporate governance and the governance of arms' length public bodies has evolved.

3. The review undertaken of the shareholder governance arrangements was set out in the Joint Committee papers (restricted part), shared with this Committee in September. In undertaking the review, consideration was given to:
 - The lessons learnt from the first few years of pooling from Border to Coast;
 - Lessons learnt from other pools in the UK;
 - Lessons from other Local Authority jointly owned companies; and
 - Lessons learnt from other pools internationally.
4. The updated documents are attached as appendices and are:
 - the Inter-Authority Agreement, which covers the role of Partner Funds as customers, including the operation of the Joint Committee;
 - the Shareholder Agreement, which sets out the rights and obligations of shareholders, issuance of shares, the operation of the business, and the decision-making process; and
 - the Articles of Association, which outlines the rules and regulations of the company.
5. Independent legal advice has been undertaken on behalf of all partner funds to review these documents, and overall the governance framework and legal documentation is considered to be fit for purpose and the exercise has been about evolution of approach.
6. In addition, the Council's Chief Legal Officer has reviewed the documents and has no major issues with the documents. He agrees that they can be entered into subject to two issues of clarification, which are drafting points in the Shareholders' agreement. These two issues have been raised with Border to Coast and the lawyers for a response, which once received will be shared with the Council's Chief Legal Officer to confirm he is satisfied.
7. Following feedback and comments from the Pensions Committee, the final Inter-Authority Agreement and Shareholder Agreement will be taken to Full Council in February 2023 to be approved, and the changes to the Articles of Association will be sent to all shareholders to approve.

Conclusion

8. A review has been undertaken by Border to Coast and external lawyers on the governance documents of Border to Coast; namely the Inter-Authority Agreement, the Shareholder Agreement and the Articles of Association. The amended documents have been reviewed independently by lawyers representing the Partner Funds, and by the Council's Chief Legal Officer. Subject to two minor points of clarification, these are found to be satisfactory.

9. Following feedback and comments from the Pensions Committee, the final Inter-Authority Agreement and Shareholder Agreement will be taken to Full Council in February 2023 to be approved, and the changes to the Articles of Association will be sent to all shareholders to approve.

Consultation

a) Risks and Impact Analysis

The Pension Fund has a risk register which can be obtained by contacting the Head of Pensions.

Appendices

These are listed below and attached at the back of the report	
Appendix A	Inter-Authority Agreement
Appendix B	Shareholder Agreement
Appendix C	Articles of Association

Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Jo Ray, who can be contacted on 01522 553656 or jo.ray@lincolnshire.gov.uk.

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