



Northumberland County Council

CABINET

11TH FEBRUARY 2020

Proposed Incorporation – Group Holding Company for Northumberland County Council

Report of Mrs Daljit Lally, Chief Executive Officer

Cabinet Member: Peter Jackson, Leader of the County Council and Nick Oliver, Cabinet Secretary and Portfolio Holder for Corporate Services

Purpose of report

The purpose of this report is to recommend to members that the Council establishes a group holding of limited companies to support the expansion of commercial business opportunities being developed. To enable the Council to understand the risks, implications and opportunities with establishing a group holding of limited companies.

Recommendations

The Cabinet gives approval to establish a group holding of limited companies initially with a view to creating up to 10 limited companies which would support general commercial trading activities and also care trading activities, to be operational as and when the objectives of a company are determined.

The group holding company (Northumberland Enterprises Limited) once established will have Director(s), and a Secretary appointed as a minimum in line with the proposed company structure in Appendix A. The group holding company will seek the most appropriate legal form for the subsidiary entities to reflect the purpose of the business venture.

The appropriate project management systems will be put in place to assure that the formation of the proposed company structure is robust, compliant with all the necessary regulations and statutory responsibilities; this will include business planning processes and financial projections for each potential venture opportunity.

Before each company commences trading, the business plan and governance assurance (including arrangements to deal with conflicts of interests arising from roles of members and officers as directors), will meet with the approval of Cabinet.

Link to Corporate Plan

This report is relevant to the “Thriving” priority included in the NCC Corporate Plan 2018-2021

Key issues

1 Establishing the Group Holding of Limited Companies

1.1.1 To maximise the opportunities to exploit its commercial potential, the County Council is seeking to establish a group holding company and up to 10 limited companies which would support general commercial trading activities and also care trading activities, providing the scope for expansion where that is deemed appropriate by the group.

1.1.2 It is proposed that the group holding company is named “**Northumberland Enterprises Limited**” and the limited companies are setup as separate legal entities, entirely owned by the group holding company. The limited companies will be named individually to reflect the chosen business activity once established.

1.1.3 The costs of establishing “Northumberland Enterprises Limited” and the limited companies is estimated to be no more than £1500 (excluding VAT) at this time.

1.1.4 The group holding company (*Northumberland Enterprises Limited*) will be requested to have a Director(s), Secretary as a minimum to be established and it is proposed that these roles are as identified within the proposed company structure in Appendix A.

1.1.5 The group holding company will report to the Council’s representative as Shareholder (the Chief Executive Officer/Head of Paid Service) The Companies will be UK incorporated and UK tax resident and will need to submit Corporation Tax Returns on an annual basis and pay the Corporation Tax on their trading profits and chargeable gains at, currently, 19%. Any such profits generated by the group holding company will support the budget challenges that the Council are facing or will be used to invest in new services for the public and/or revenue opportunities as appropriate.

1.1.6 The group holding company will seek the most appropriate legal form for the subsidiary entities to reflect the purpose of the business venture.

1.2 Managing Risk

1.2.1 The Council will be required to establish an approach to managing the risk profile of each limited company established within the group holding company and such limited companies can only be established and/or commence operation with the agreement of the group holding company board and the express permission of the shareholders representative.

- 1.2.2 The Group governance structures will need to be established based on managing the risk profiles to ensure that the Council is clear on how the Council expects its limited companies to be managed and these will be developed once the group holding company is established.
 - 1.2.3 For the purposes of meeting the necessary requirements of VAT, a group registration will be in place for VAT purposes and specialist VAT advice has been obtained in order to provide assurance in this regard.
 - 1.2.4 The Council will seek to have a broader oversight of the group holding company than that of Advance Northumberland; this will be articulated within the Articles of Association which are established for the group holding company.
 - 1.2.5 Before each company commences trading, the business plan and governance assurance (including arrangements to deal with conflicts of interests arising from roles of members and officers as directors), will meet with the approval of Cabinet.
- 1.3 Funding Model
- 1.3.1 The funding model for the group holding company will be transparent and based on income generation.
 - 1.3.2 Should there be agreement to provide capital investment or financial support to the company from the County Council, this will be through a formal agreement only and overseen by the Monitoring Officer, Section 151 Officer and the Chief Executive of the Council.

Background

- 2.1 The County Council has recently diversified some of its traditional activities to take advantage of commercial development opportunities which the Council has the technical and business expertise to deliver.
- 2.2 The current arrangements within the County Council does not allow for commercial trade opportunities to be fulfilled to their potential and the County Council would not always have the same trading acumen or reputation within a commercial field based purely on the legitimacy that the County Council is a public sector organisation.
- 2.3 The County Council has therefore been looking at opportunities to develop a commercial vehicle for the County Council which is different in nature to Advance Northumberland but one that would allow trading within both general and care sectors where the Council is a recognised national leader and one which would also allow the opportunity to collaborate with organisations of similar standing if required.
- 2.4 There are a number of examples of innovative practice that the Council is playing a leading role in and the potential for successful commercialisation is significant. Examples include:

- Green energy enterprises
- The delivery of integrated health and social care services
- The delivery of education and training services
- Staff development, training and benefits
- Delivery of council and partnership based housing (specialist and general)
- National and international management and delivery services/consulting
- Project management services and digital services

2.5 The County Council has already signed some initial memorandum of understandings/contracts which offer the opportunity for further commercial income to be generated and, subject to the group holding of limited companies being established, such contracts will be novated to the new arrangement to progress opportunities further.

Implications

Policy	Accords with the corporate plan – Thriving/Connecting/Learning/Enjoying/Living
Finance and value for money	Nominal costs associated with set up and governance costs, annual accounting, Non exec director and company secretary appointments – Self-financing and will be articulated in the business cases for the entities. Specialist tax advice will be sort for each business case.
Legal	Setting up essential to establishing the appropriate vehicle for the entities and the proposed activities where specialist advice will be obtained.
Procurement	Follow prevailing legislation and will be considered within the construct of the companies
Human Resources	Follow prevailing legislation and will be considered within the construct of the companies
Property	Assets which may be appropriate to transfer will be considered within each business case
Equalities (Impact Assessment attached) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	To be developed per company business case
Risk Assessment	Individual company risk assessments to be completed as part of the programme management process for each business case
Crime & Disorder	N/A
Customer Consideration	Individual company assessments to be completed as part of the programme management process for each business case

Carbon reduction	Will feature within all business plans for the new companies
Health and Wellbeing	Will feature within all business plans for the new companies
Wards	All

Background papers:

Not Applicable

Report sign off.

Authors must ensure that officers and members have agreed the content of the report:

	Full Name of Officer
Monitoring Officer/Legal	Liam Henry
Executive Director of Finance & S151 Officer	Chris Hand
Relevant Executive Director	Kelly Angus
Chief Executive	Daljit Lally
Portfolio Holder(s)	Nick Oliver

Author and Contact Details

Daljit Lally Chief Executive Officer

Appendix 1

Northumberland County Council – Group Holdings Governance Structure

Proposed Corporate Governance Structure

Company Model

NORTHUMBERLAND ENTERPRISES LTD

NCC Executive Officers x2
County Council Cabinet x2
Lead Opposition Group x1
Non Executives x2

CO #1 – Example

Executive Officers x1
County Council Members x1 or x2
Non-executive x1

Co.#1	Co.#2	Co.#3	Co.#4	Co.#5
Co.#6	Co.#7	Co.#8	Co.#9	Co.#10

Co.# - each to be initiated as and when ventures are approved by the Holding Company

Governance Assurance Model

The Holding Company:

Board of Directors: to manage the holding company and oversee the subsidiaries. The existing business is safeguarded and protected from any liabilities that may arise in relation to the new ventures.

(a) holds a majority of the voting rights in CO.#

(b) is a member of CO.# and has the right to appoint or remove a majority of its board of directors

Ensures that inter-group transactions are at arm's length where possible

Holding group policies extended to CO.# on matters such as conflicts, major transactions and related party transactions, borrowing and the provision of any guarantees.

Limited Companies:

Board of Appointed Directors, including appropriate non-executives.

Not an extension of the holding company; it is a separate legal entity. Directors can consider the interests of the holding company or the group as a whole, but they have a duty to act in the interests of the subsidiary.