



Northumberland

County Council

COUNCIL

24 FEBRUARY 2021

UPDATE TO CONSTITUTION – FIRE & RESCUE SERVICE & AUDIT COMMITTEE & COMMUNITIES & PLACE OVERVIEW & SCRUTINY COMMITTEE

Report of the Service Director, Corporate Assurance

Report of Business Chair: Councillor Barry Flux

Purpose of report

This report seeks members' approval to proposed amendments to the Constitution to include additional details of the Fire & Rescue Authority, the role of the Council's Audit Committee and amendments to the terms of reference of the Communities and Place Overview and Scrutiny Committee.

Recommendations

It is recommended that full Council:

- (1) Approves the amended Articles and Terms of Reference at Appendices A and B to the report and notes the intention to insert an additional paragraph on the Fire and Rescue Service in the Introduction to the Constitution.
- (2) Notes the intention to delete existing references in Article 8 (Regulatory & Other Committees) and in Part 3 (Committee Terms of Reference)) to the NCC LGPS Local Pension Board and to the FPS Local Pension Board for the reasons set out in paragraphs 6 and 7 of the report.
- (3) Approves the amended Terms of Reference for Communities and Place Overview and Scrutiny Committee at Appendix C to this report.

Key issues

The Council's Constitution should be kept under regular review to ensure that any new legislative requirements are captured and to ensure compliance with best practice. This report is part of a series of reports to the County Council to update and refresh the current Constitution and deals with the Fire and Rescue Authority and the Audit Committee. It also updates members on the LGPS and FRS Local Pension Boards and amends the terms of reference for the Communities and Place Overview and Scrutiny Committee.

Background

- (1) Members approved amendments to the Articles at Part 2 of the Constitution at their last Council meeting, however the report flagged up the need to insert an additional item in relation to the Fire and Rescue Authority as the current Constitution makes very little reference to it. Members of the Constitution Working Group had also requested an additional section be inserted outlining the powers and role of the Audit Committee to give it more prominence.
- (2) The opportunity has also been taken to refresh the terms of reference of the Communities and Place Overview and Scrutiny Committee as required by the latest government guidance on counter terrorism.

Fire and Rescue Authority Introduction & New Article 18

- (3) Members are requested to approve an additional paragraph to be added to the Introduction to the Constitution at Part 1 which briefly summarises the role of the Fire and Rescue Authority. Users can then click through to a new Article 18 which sets out more detail.
- (4) The proposed additional text to be added as an additional paragraph 1.13 is as follows:

The County Council is also the designated Fire and Rescue Authority for the County of Northumberland with all 67 Councillors members of the Fire and Rescue Authority. The Cabinet Member for Community Services is the lead member and is delegated to act as the Fire Authority Chair with responsibility for Fire and Rescue specifically within the remit of the Cabinet portfolio. The Communities and Place Overview and Scrutiny Committee has responsibility for scrutinising the function and acting as a critical friend.

More detail on the role and responsibilities of the Fire Authority can be found at Article 18.

- (5) A new Article 18 is attached at Appendix A which provides as follows:

Paragraph	Content
1. Fire and Rescue Authority	<ul style="list-style-type: none">• Outlines the role of the County Council as the Fire & Rescue Authority for the County with primary responsibility to make Northumberland a safer place to live & work through Prevention, Protection & Response• Sets out the responsibility of all councillors as members of the Fire Authority for the overall resilience of the service including the setting of

	<p>the annual budget & approving the Fire & Rescue Plan as part of the Council's Policy Framework</p>
<p>2. Cabinet Member for Community Services</p>	<ul style="list-style-type: none"> • Notes the Cabinet Member is the lead member & is delegated to act as the Fire Authority Chair • Summarises their responsibilities to provide assurance on performance, receive reports on strategy, budgets & policy, develop expertise & knowledge, acts as lead spokesperson, attend O&S Committee & respond to questions at Council meetings
<p>3. Communities & Place Overview & Scrutiny Committee</p>	<ul style="list-style-type: none"> • Notes the O&S Committee has responsibility to scrutinise the function as a critical friend • Provides that the CFO will report on key performance information to ensure members can hold the Cabinet Member to account ensuring statutory responsibilities are met & agreed targets & objectives met
<p>4. The Statutory Framework</p>	<p>Summarises the main statutory requirements of the Fire & Rescue Act 2004 including:</p> <ul style="list-style-type: none"> • Promoting Fire Safety, extinguishing fires & protecting life & property when fires occur & rescuing people involved in road traffic collisions & other emergencies • Summarises the 5 national priorities in the Fire & Rescue National Framework which Fire Authorities must have regard to when carrying out their functions & explains how NCC addresses these through 3 main mechanisms (namely the Fire & Rescue Plan, an Annual Statement of Assurance, effective Financial Planning) • Refers to the Crime & Disorder Act 1998 & the duty to work with partners

	<p>to reduce crime & disorder in the area</p> <ul style="list-style-type: none"> • Notes the designation as a Category 1 Responder under the Civil Contingencies Act 2004 • Signposts to the detail of other relevant legislation in the Fire & Rescue Service Statement
5. The Chief Fire Officer & Operational Arrangements	<ul style="list-style-type: none"> • Sets out the role of the Chief Fire Officer as principal adviser on the discharge of the Fire & Rescue Services functions • Summarises the role as providing operational leadership & ensuring strategic aims & objectives are met, functions delivered & performance targets met
6. Firefighter Pension Scheme Local Pension Board	<ul style="list-style-type: none"> • Summarises the role of the FPS Local Pension Board under the legislation in assisting the County Council as scheme manager in securing compliance with the legislation & ensuring the effective governance & administration of the scheme • Sets out the composition of the board (to include 2 elected members) • Notes this is not a local authority committee and therefore detailed operational guidance is held in a separate document
7. Disputes Panel (Fire & Rescue Service)	<ul style="list-style-type: none"> • Notes the role of the Panel to hear disputes as required by the provisions of the Conditions of Service of LA Fire Brigades

- (6) Members are particularly asked to note the intention to delete the current references to the Firefighter Pension Scheme Local Pension Board from both Article 8 of the Constitution (which refers to Regulatory and Other Committees) and in Part 3 of the Constitution (which sets out terms of reference for Council committees). The FPS Local Pension Board is not a Council Committee (although elected member

representatives sit on it) and it seems more logical to refer to all the information in this new Article dealing with the Fire and Rescue Authority in one composite entry.

- (7) At the same time the current reference to the NCC LGPS Local Pension Board at Article 8 will be deleted as it is no longer required. This is as a consequence of the merger of the Northumberland CC Pension Fund with the Tyne & Wear Pension Fund which members approved at full Council in January 2020.
- (8) Members of the Constitution Working Group met on the 10 February 2021 and, after briefly seeking clarification on the role of the Police and Crime Commissioner, agreed to recommend approval of both the amended text to the Introduction to the Constitution and the new Article 18.

Audit Committee – New Article 9A and Amended Terms of Reference

- (9) At a previous meeting of the Constitution Working Group Members requested that the Audit Committee be included in the Articles at Part 2 of the Constitution in order to clarify the role of the Committee and highlight it’s importance. The new Article would be in addition to the very detailed Terms of reference for the Audit Committee in Part 3 of the Constitution and would link to them.
- (10) Amended Terms of reference were approved for the Audit Committee at full Council in November 2020 when extensive new sections were added in order to set out the role the Committee has as Group Audit Committee for all those entities within the County Council’s accounting group boundary.
- (11) The draft new Article 9A is set out at Appendix B and provides:

Paragraph	Content
1. Audit Committee	<ul style="list-style-type: none"> • Overview of the purpose of the Committee in providing independent assurance to members especially in relation to the Council’s risk management framework, internal control environment, financial reporting & annual governance process & both internal & external audit • Stresses the Committee is independent of both the executive & scrutiny functions • Notes the Committee is directly accountable to full Council & must report to it on a regular basis on its performance &

<p>2. Composition</p>	<p>effectiveness</p> <ul style="list-style-type: none"> • Sets out the composition of 8 CC members & 2 co-opted members appointed from the community following a competitive recruitment process • Notes Co-optees have no formal vote • Notes mandatory training & development requirements
<p>3. Role & Function</p>	<p>Sets out in detail the main roles and functions of the Committee including</p> <ul style="list-style-type: none"> • Responsibility for Governance, Risk & Control, including approving the Annual Governance Statement, VFM, Risk Management, effective Internal Controls & monitoring counter fraud strategy, action & resources • Reviewing the Internal Audit function, performance & outputs, including approving the internal audit charter & audit plan, receiving audit reports & updates on progress & contributing to the Quality Assurance & Improvement Programme/other external quality assessments • Receiving & reviewing the work of the External Auditor, including their annual letter & relevant reports, ensuring VFM • Commissioning work from both internal & external audit & monitoring effective relationships

	<ul style="list-style-type: none"> • Reviewing & approving the Statement of Accounts & the external auditor’s report on issues arising from the audit • Reporting on the adequacy & effectiveness of governance, risk management & internal control frameworks, financial reporting arrangements & audit functions • Reporting to full Council on a regular basis on the Committee’s own performance & effectiveness
4. Attendance at Audit Committee	<ul style="list-style-type: none"> • Sets out the expectation of which officers will attend & notes the Chief Executive & Leader may attend by invitation of the chair • Notes the Committee should have a clear policy of matters to be considered in private and those in public • Notes that both the External Auditor & Head of Internal Audit must be able to meet privately & separately with the Committee
5. Group Audit Committee	<p>Notes that the Audit Committee has been designated as the Group (ie Parent) Committee for all entities in the NCC Accounting Group Boundary with responsibility for maintaining governance oversight of all group entities, including monitoring;</p> <ul style="list-style-type: none"> • Financial Reporting • External Audit • Internal Control (including Health & Safety compliance)

	<ul style="list-style-type: none"> • Internal Audit • External Audit • High Level risk & control framework (including assets & liabilities framework) • Fraud awareness (including probity policies) • Treasury policy & management (including loan compliance)
6. Attendance at Group Audit	<ul style="list-style-type: none"> • Sets out the expectation of which officers will attend & notes the Chief Executive & Leader may attend by invitation of the chair • Internal & External Auditors for all entities in the group are required to attend meetings at the Committees request • The Chair may require any person in attendance to leave the room as necessary when discharging the functions of a Group Audit Committee

(12) The opportunity has also been taken to amend the current Terms of Reference to bring them in line with the latest suggested Terms of reference as recommended by CIPFA. These are relatively minor changes as follows:

Section	Proposed Change
Governance, Risk and Control	<ul style="list-style-type: none"> • Insert reference to ethical framework • Clarifies the Committee approves the Annual Governance Statement • Add the review of governance and assurance arrangements for significant partnerships and arrangements
Internal Audit	<ul style="list-style-type: none"> • Add reference to the review of any impairment to the role of the Head of

	<p>Audit arising from any additional roles or responsibilities</p> <ul style="list-style-type: none"> • Add the requirement to allow the Head of Internal Audit free and unfettered access to the Chair and the opportunity for a private meeting with the Committee
External Audit	<ul style="list-style-type: none"> • Add section on the independence of the External Auditor through its annual assessment and the review of any issues raised
Financial Reporting	<ul style="list-style-type: none"> • Clarifies the Committee approves the annual statement of accounts
Accountability	<ul style="list-style-type: none"> • Add the requirement to publish an annual report on the work of the Committee

- (13) Members of the Constitution Working Group considered the amendments at their meeting on the 10 February 2021 and recommended that members of the Audit Committee should attend mandatory Training and Development sessions in order to enable them to undertake their role effectively. It was noted that planning was in progress for a comprehensive induction programme for members following the May elections together with a refresh of the Council’s current approach to member development.
- (14) The Working Group agreed to recommend to Council the approval of the proposed new Article 9A and amended Terms of Reference at Appendix B.

Communities and Place Overview and Scrutiny Committee – amended Terms of Reference

- (15) **CONTEST** is the name of the UK’s National Counter-Terrorism Strategy, which is split into four workstreams, known within the counter-terrorism community as the “four P’s”:

Prevent: Stop people from becoming drawn into or supporting terrorism. This includes countering terrorist ideology and challenging those who promote it; supporting individuals who are especially vulnerable to becoming radicalised; and working with sectors and institutions where the risk of radicalisation is assessed to be high. A key element of Prevent, and relevant to this report, is **Channel**, the aim of which is to protect vulnerable people from being drawn into terrorism

Pursue: Stop terrorist attacks by detecting, prosecuting and otherwise disrupting those who plot to carry out attacks against the UK or its interests overseas – Responsibility rests with the security services and police.

Protect: Strengthen protection against a terrorist attack in the UK or against its interests overseas and so reduce their vulnerability. The work focuses on border security, the transport system, national infrastructure and public places.

Prepare: Mitigate the impact of a terrorist attack where that attack cannot be stopped. This includes work to bring a terrorist attack to an end and to increase the UK's resilience so we can recover from its aftermath.

(16) The National Counter Terrorism Strategy was refreshed in June 2018, with the refreshed strategy placing a greater responsibility within Local Authorities for Prevent and Channel and to utilise multi agency relationships. This responsibility gives the lead for the Channel Panel to Local Authorities and emphasises the need for joint decisions to support for people vulnerable to being drawn into terrorism.

(17). As a designated statutory duty, the requirements of Channel should be reflected in relevant local policy, guidance and the local authority's Constitution.

(18) In order to comply with the latest guidance and to reflect the importance of this workstream the terms of reference of the Communities and Place Overview and Scrutiny Committee have been amended to refer to "CONTEST, Prevent and Channel" both in the summary at Article 7 and in the full Terms of Reference at Part 3 of the Constitution. At the request of the Overview and Scrutiny Committee a footnote expands on this reference.

(19) The proposed amendment was approved by the Constitution Working Group at their meeting on the 10 February 2021, subject to a request that the footnote in the Terms of Reference makes reference to other similar initiatives with a view to future proofing the document in the event of similar government initiatives.

(20) Council is requested to approve the proposed amendments the Communities and Place Overview and Scrutiny Committee at Article 7 and at Part 3 of the Council's Constitution and attached as Appendix C to this report.

Implications

Policy	The proposed amendments will align the Constitution with the latest guidance & legislation.
Finance and value for money	No direct costs will be incurred by updating the Constitution.
Legal	The Constitution requires regular review to ensure it is up to date and complies with best practice.
Procurement	N/A
Human	There are no additional staffing resources required as a result of

Resources	this report.
Property	N/A
Equalities (Impact Assessment attached) Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> x	N/A
Risk Assessment	It is important that the Councils Constitution is up to date and reflects the latest legislation and best practice to minimise risk of challenge and reputational damage. The Council's Constitution should reflect the latest legislative position to provide clarity & avoid any dispute as to which should prevail.
Crime & Disorder	N/A
Customer Consideration	N/A
Carbon reduction	N/A
Health and Wellbeing	N/A
Wards	All

Background papers:

Council Constitution

Report sign off.

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

	Full Name of Officer
Deputy Monitoring Officer/Legal	Helen Lancaster
Executive Director of Finance & S151 Officer	N/A
Relevant Executive Director	N/A
Chief Executive	N/A
Portfolio Holder(s)/ Business Chair	Councillor B Flux

Author and Contact Details

Allison Mitchell Director Corporate Assurance
Allison.Mitchell@northumberland.gov.uk

Caroline Elwood Interim Governance Consultant
Celwood@northumberland.gov.uk

