



Northumberland

County Council

COUNCIL

DATE: 3 NOVEMBER 2021

Proposed Constitutional Changes

Report of Neil Masson, Senior Manager and Deputy Monitoring Officer, Legal Services

Purpose of report

To review and update the Constitution and make related appointments.

Recommendations

Following consideration by the Constitution Working Group, Council is recommended to:

1. Amend Part 3 of the Constitution – Membership of Committees 2020/21 in the following respect:
 - Amendment of the table of committees on page 45 of the Constitution, to reflect the size of the Petitions Committee, Standards Committee and Staff and Appointments Committees is now 9 members, following the decision of full council on the 26th May 2021
 - Amendment of the year specified in the table of committees on page 45 of the Constitution from 2020/21 to 2021/22
2. Agree that references to the Chief Executive also being a Director of the NHS Foundation Trust and the Executive director of HR/OD and Deputy CEO being seconded from the NHS Foundation Trust are removed from the relevant sections of the Constitution, as set out in paragraph 6 below.
3. Note that the functions of the Executive Director of HR/OD and Deputy Chief Executive are currently being exercised by the Chief Executive as Head of Paid service in accordance with Part 4.1 para 5.9 of the constitution, except in matters where there is a conflict of interest, whereby those matters will be delegated to the appropriate Executive Director.
4. Note that following the current Management Review, the revised structure will be reported to a future meeting of Constitution Working Group and the constitution amended accordingly

Link to Corporate Plan

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

Key issues

- At the full meeting of Council on the 26th May 2021 the Council’s committees were appointed.
- The size of three committees – Petitions Committee, Standards Committee and Staff and Appointments Committee, were increased to nine members, from that previously. However, there was no corresponding resolution to amend part 3 of the constitution, which states that the size of these committees is 8.
- The Council therefore now needs to amend the table of committees within the Constitution at Part 3 (page 45) to reflect the decision of the Council on the 26th May 2021.
- References within the constitution to the Chief Executive’s role with the NHS Foundation Trust are now obsolete and need to be deleted
- The Deputy Chief Executive and Executive Director of HR & OD post is currently vacant and consideration needs to be given to how this is dealt with in the constitution.

Background

Part 3 – Matters Reserved to Elected Members and Committee Terms of Reference

1. At the meeting of the Council on the 26th May 2021 Council resolved to appoint committees and working groups as set out in an appendix to the agenda circulated to members. The minutes are set out below:

8. APPOINTMENTS - CHAIRS AND VICE CHAIRS AND COMMITTEES

The Chair advised that there had been some changes in terms of group sizes and updated information would be provided by Democratic Services. An updated appendix three had been circulated to all members and he encouraged all members to get in touch with him if they had any queries.

He asked members to agree that authority to confirm the final appointments to the Committees by Groups be delegated to the Chief Executive.

Councillor Bridgett noted that there had been an increase in numbers on some of the committees and working groups, and sought clarification on a couple of committees regarding the gifting of places by the Administration to minority groups as some names were already identified, but in others they had not been. The Business Chair confirmed that some places had been gifted and that the document had been worked on right up to the last minute.

It was moved by Councillor Castle and seconded by Councillor Dickinson that the delegation to the Chief Executive as detailed above be agreed.

RESOLVED that:-

(a) the appointment of the Chairs and Vice Chairs set out in Appendix two to the agenda be agreed;

(b) the appointment of Committees and Working Groups detailed in Appendix three be agreed, and authority be delegated to the Chief Executive to confirm the final appointments to the Committees.

2. The increase in size of some committee and working groups related to the following:

- Petitions Committee
- Staff and Appointments Committee
- Standards Committee
- Climate Change Working Group
- Constitution Working Group
- Food Poverty Working Group
- Member Services Working Group
- Safeguarding and Corporate Parenting Working Group
- VCS Liaison Working Group

3. Of the above it is only the three committees that are set out in terms of size in Part 3 of the Constitution, being 8 members for each committee. As such the resolution of the 26th May 2021 should have included authorisation to amend the constitution to reflect the increased size to 9 members for these committees. This report seeks to rectify this. Working Groups are not set out within the Constitution and so no amendment is needed in respect of them.

4. Accordingly the Working Group is asked to recommend that Council should authorise amendment of the Constitution, specifically the table at the beginning of Part 3 (page 45 in the current version of the Constitution) to reflect the Council's decision that the Petitions Committee, Standards Committee and Staff and Appointments Committee are constituted of 9 members.

References to the Chief Executive also being a Director of the NHS Foundation Trust

5. There are numerous references to the Chief executive also being a Director of the NHS Foundation Trust. However, this is no longer accurate and these references need to be deleted from the constitution. There are also references to the Executive Director of HR/OD and Deputy CEO being a secondment from the NHS Foundation Trust which are no longer accurate and need to be deleted.

6. These reference can be found at:

- Part 2 Article 12 para 12.01 'Functions and areas of Responsibility' of 'Chief Executive (Head of Paid Service) (page 33)
- Part 2 Article 12 para 12.01 'Functions and areas of Responsibility' of 'Executive Director of HR/OD and Deputy Chief Executive (page 34)
- Part 4.1 para 9.3 (page 77)
- Part 8.3 Management Structure – reference to Chief Executive being Director of NHS Foundation Trust (page 216)
- Part 8.3 Management Structure – reference to Executive director of HR/OD & Deputy CEO being NHS Secondment (page 216)

Senior Management Review and impact on Constitution

7. As members will be aware there is currently a review of the Council's management structure being conducted by external consultants. Although parts of the constitution may be inaccurate in respect of Chief Officers and areas of responsibility, it is not considered appropriate at this time to amend the constitution pending the review. The Chief Executive has previously exercised delegated powers to re-allocate functions of Chief Officers upon those officers leaving the employment of the organisation. With regards to the functions of the Executive Director of HR/OD and Deputy Chief Executive, these are now being exercised by the Chief Executive. As these include HR functions, for any matters which relate to the Chief Executive, these will be delegated to an appropriate Executive Director.
8. The relevant sections of the scheme of delegation referred to in paragraph 7 above are as follows:

5.8 The Head of Paid Service may allocate or re-allocate responsibility for functions between Officers as necessary for the effective discharge of those functions or to cover absence of particular Officers.

5.9Where a function is delegated to an Executive Director it shall also be exercisable by the Head of Paid Service, except the functions of Monitoring Officer and Section 151 Officer and their deputy...

Implications

Policy	No significant implications
Finance and value for money	No Financial Implications
Legal	None other than as reflected in the report
Procurement	N/A

Human Resources	N/A
Property	N/A
Equalities (Impact Assessment attached) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	Issues relating to equalities are reflected, where appropriate, in the report and appendices
Risk Assessment	N/A
Crime & Disorder	N/A
Customer Consideration	N/A
Carbon reduction	N/A
Health and Wellbeing	None significant
Wards	All

Background papers:

None

Report sign off.

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

	Full Name of Officer
Monitoring Officer/Legal	Neil Masson
Interim Executive Director of Finance & S151 Officer	Jan Willis
Relevant Service Director	N/A
Chief Executive	Daljit Lally
Portfolio Holder(s)	Councillor B Flux

Author and Contact Details

Neil Masson

Senior Manager, Legal Services and Deputy Monitoring Manager