

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO**

Council
16 December 2020

Report Title: Changes to the Constitution of the Council

Submitted by: Chief Executive

Portfolios: Corporate and Service Improvement, People and Partnerships

Ward(s) affected: All

Purpose of the Report

To advise members of an update to a job title in the Constitution.

Recommendation

That Council notes that references in the constitution to the “Head of Business Improvement, Central Services and Partnerships” have been changed to ““Head of Legal and Governance””.

Reasons

To update the constitution so that it reflects the current officer structure.

1. **Background**

- 1.1 The Council’s constitution sets out a number of delegations to officers by reference to job title. In the event of job titles ceasing to exist in the officer structure, there is a need to update the constitution to ensure that delegations remain current.
- 1.2 The role of Head of Business Improvement, Central Services and Partnerships was deleted from the officer structure but the need to update delegations in the constitution appears to have been overlooked.
- 1.3 The delegations in question should properly sit with the new role of Head of Legal and Governance, so the Monitoring Officer, in consultation with the Group Leaders, has used powers delegated to him to update the constitution accordingly.
- 1.4 Through this report, members are advised that this change to the constitution has been made.

2. **Issues**

- 2.1 There are 15 instances where the job title “Head of Business Improvement, Central Services and Partnerships” appears in the constitution. Each of them is set out in the appendix to this report. That job title no longer exists, hence the need to update

those references so that the relevant powers are associated with the correct post in the officer structure.

2.2 As a result of the changes made, each of the 15 instances now refer to the “Head of Legal and Governance”. References to any other officer in those 15 instances remain unchanged.

2.3 These changes were made by the Monitoring Officer, in consultation with the Group Leaders, using the following power delegated to the Monitoring Officer by full Council (Constitution, page 28 – emphasis supplied):-

15.2 Changes to the Constitution

Approval

*Changes to the Constitution will only be approved by the Full Council after consideration of the proposal by the Monitoring Officer, **save that the Monitoring Officer may make consequential changes to the Constitution to reflect resolutions of the Council or Cabinet or decisions properly made under delegated powers and changes of fact and law subject to regular notification of Members to such changes.***

3. **Proposal**

3.1 That Council notes that references in the constitution to the “Head of Business Improvement, Central Services and Partnerships” have been changed to ““Head of Legal and Governance”

4. **Reasons for Proposed Solution**

4.1 To update the constitution so that it reflects the current officer structure.

5. **Options Considered**

5.1 N/A

6. **Legal and Statutory Implications**

6.1 Delegations must remain up to date to ensure that they can be properly exercised.

7. **Equality Impact Assessment**

7.1 N/A

8. **Financial and Resource Implications**

8.1 N/A

9. **Major Risks**

9.1 The risk of challenges to decision taken increase if the appropriately authorised officer is not readily identifiable from the constitution.

10. **Sustainability and Climate Change Implications**

10.1 N/A

11. **Key Decision Information**

11.1 N/A

12. **Earlier Cabinet/Committee Resolutions**

12.1 N/A

13. **List of Appendices**

13.1 N/A

14. **Background Papers**

14.1 N/A

Appendix
References in the Constitution to the Head of Business Improvement, Central Services and Partnerships changed to Head of Legal and Governance

Page 135/136 of the Constitution (Setting out powers and who they are delegated to)

	Function	Exercised by
10	Action (including briefs to Counsel) which the Chief Executive or Head of Business Improvement, Central Services and Partnerships considers necessary to protect or defend the Council where complaints are made or action brought or threatened against it including compromises and including payments of money including those arising from Ombudsman or other complaints and the withdrawal of action in the interests of the Council	Chief Executive or Head of Business Improvement, Central Services and Partnerships
11	To issue a formal caution as an alternative to prosecution	Head of Business Improvement, Central Services and Partnerships
12	To authorise the issue of a Closure Notice and take all other action in respect of premises associated with persistent disorder or nuisance	Chief Executive or Head of Business Improvement, Central Services and Partnerships
12*	To authorise proceedings for an Anti-social Behaviour Order and to respond to consultation in respect of anti-social behaviour	Chief Executive or Head of Business Improvement, Central Services and Partnerships
14	To authorise proceedings for breach of an Anti-social Behaviour Order	Chief Executive or Head of Business Improvement, Central Services and Partnerships
17	Action to secure the eviction of trespassers from Council land	Head of Business Improvement, Central Services and Partnerships
18	To procure goods and services within existing agreed budget provisions and in accordance with Standing Orders	Chief Executive or Head of Business Improvement, Central Services and Partnerships
19	To carry on tendering and negotiation procedures in accordance with the Council's Rules	Chief Executive or Head of Business Improvement, Central Services and Partnerships

* note this numbering error has also been corrected.

Page 143 of the Constitution (Setting out powers and who they are delegated to)

	Function	Exercised by
18	To exercise the Council's powers to make Tree Preservation Orders and to control	Executive Director (Operational Services) and/or Head of Business

	falling, topping, lopping and re-planting under such Orders	Improvement, Central Services and Partnerships
19(b)	To make Tree Preservation Orders	Executive Director (Operational Services) and/or Head of Business Improvement, Central Services and Partnerships

Page 145 of the Constitution (Setting out powers and who they are delegated to)

	Function	Exercised by
34	Processing of all appeals	Head of Business Improvement, Central Services and Partnerships and Executive Director (Regeneration and Development)

Page 147 of the Constitution (Setting out powers and who they are delegated to)

	Function	Exercised by
2	To serve appropriate notices required by legislation in respect of commercial property	Head of Business Improvement, Central Services and Partnerships

Page 149 of the Constitution (Setting out powers and who they are delegated to)

	Function	Exercised by
11	To serve notices under the Landlord and Tenant (Covenants) Act 1995	Head of Business Improvement, Central Services and Partnerships

Page 442 of the Constitution (Members Planning Protocol)

9.5 The mover and seconder of a resolution of refusal contrary to officer recommendation should be identified by the Chair and recorded in the minutes of the Committee, and in the event of an appeal being lodged there is an expectation that those Members will make themselves available as witnesses on behalf of the Council in the appeal proceedings should either the Head of Planning or the Head of Business Improvement, Central Services and Partnerships or their representatives deem that appropriate