

# ARTICLE 13 - OFFICERS

This Article explains the roles and functions of the Principal Officers of the Council.

## 13.01 Management structure

- a) General. The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- b) Chief Officers. The full Council will engage persons for the following posts, who will be designated chief officers:
  - Chief Executive
  - Deputy Chief Executive (Communities)
  - Director Public Health
  - Director of Finance (Chief Finance Officer)
  - Director of Economy and Growth
- c) **Head of Paid Service, Monitoring Officer, Chief Financial Officer and Statutory Scrutiny Officer.** The Council will designate the following statutory posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Chief Legal Officer	Monitoring Officer
Director of Finance (Chief Finance Officer)	Section 151 Officer
Director Governance, Democracy and Community Engagement	Statutory Scrutiny Officer

These posts will have the functions described in [Article 12.02–12.04](#) below.

- d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

## 13.02 Functions of the Head of Paid Service (the Chief Executive)

- a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Director of Finance (Chief Finance Officer) if a qualified accountant.

### 13.03 Functions of the Monitoring Officer

- a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Director of Finance (Chief Finance Officer), the Monitoring Officer will report to the full Council or to the Cabinet in relation to a Cabinet function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c) **Supporting the Standards and Adjudication Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards and Adjudication Committee.
- d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by the Standards and Adjudication Committee and make reports or recommendations in respect of them to the Standards and Adjudication Committee, in accordance with the Localism Act 2011.
- f) **Proper officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- g) **Advising whether Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- h) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- i) **The Monitoring Officer** will maintain the register of members' interests under the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and North East Lincolnshire Council's Code of Conduct and record information, gifts and hospitality notified by members and maintain a register of officer interest in contracts.
- j) **Restrictions on posts.** The Monitoring Officer cannot be the Director of Finance (Chief Finance Officer) or the Head of Paid Service.

### 13.04 Functions of the Director of Finance (Chief Finance or Section 151 Officer)

- a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Director of Finance (Chief Finance Officer) will report to the full Council or to the Cabinet in relation to a Cabinet function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

- b) **Administration of financial affairs.** The Director of Finance (Chief Finance Officer) will have responsibility for the administration of the financial affairs of the Council.
- c) **Contributing to corporate management.** The Director of Finance (Chief Finance Officer) will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d) **Providing advice.** The Director of Finance (Chief Finance Officer) in consultation with the Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and officers and will support and advise councillors and officers in their respective roles.
- e) **Give financial information.** The Director of Finance (Chief Finance Officer) will provide financial information to the media, members of the public and the community.
- f) **The exercise of the Director of Finance (Chief Finance Officer)'s role** and responsibilities shall be in accordance with the CIPFA guidance on the role of the Section 151 Officer.

### **13.05 Duty to provide sufficient resources to the Monitoring Officer and Director of Finance (Chief Finance Officer).**

The Council will provide the Monitoring Officer and Director of Finance (Chief Finance Officer) with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

### **13.06 Conduct**

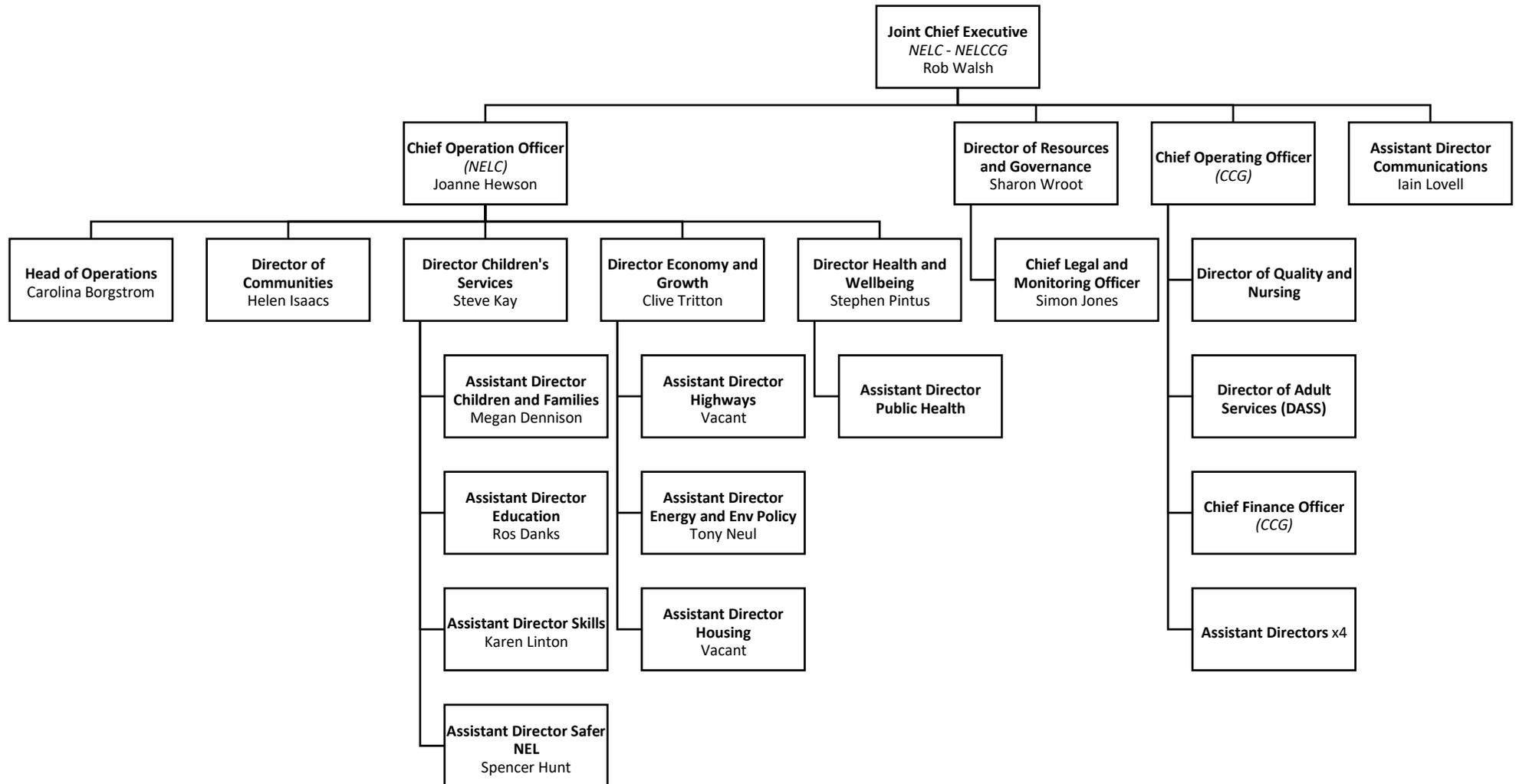
Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 3 of this Constitution.

### **13.07 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 3 of this Constitution.

ARTICLE 13 APPENDIX 1

Management Structure (as at March 2019)



## **ARTICLE 13 APPENDIX 2**

### **OFFICER EMPLOYMENT PROCEDURE RULES**

These rules set out the agreed procedures to be followed in relation to the appointment, dismissal and disciplining of the Council's Officers.

Within these Rules the term "Officer" means any employee of the Council, "Chief Officer" means a Director of the Council and for the avoidance of any doubt "Chief Officer" shall also include those officers referred to in section 2(6)(7) & (8) of the Local Government and Housing Act 1989.

#### **1. Recruitment and appointment**

##### **(a) Declarations**

- i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or the partner of such persons.
- ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

##### **(b) Seeking support for appointment**

- i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii) Subject to paragraph (iii), no councillor will seek support for any person for any appointment with the Council.
- iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

#### **2. Recruitment of Head of Paid Service and chief officers**

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
  - i) the duties of the officer concerned; and
  - ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

### 3. Appointment of Head of Paid Service

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee of the Council. That committee (The Appointments Committee) must include at least one member of the Cabinet.
- (b) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

### 4. Appointment of chief officers

- (a) The Appointments Panel will also appoint chief officers. The Panel must include at least one member of the Cabinet.
- (b) An offer of employment as a chief officer shall only be made where no well-founded objection from any member of the Cabinet has been received.
- (c) Appointments of chief officers must not be made unless the Head of Paid Service or an officer nominated by him has notified every member of the Cabinet of the name of and other relevant particulars relating to the person about to be appointed and the Leader has notified the relevant officer that the Cabinet has no objection to the appointment or any objection it has is either not material or not well founded.

### 5. Other appointments

- (a) **Officers below chief officer.** Appointment of officers below chief officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors.
- (b) **Assistants to political groups.** Appointments of an assistant to a political group shall be made in accordance with the wishes of that political group.

### 6. Dismissal and other Disciplinary action

- (a) Suspension. The Head of Paid Service, Monitoring officer and Director of Finance (Chief Finance Officer) may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (b) Independent Panel. The decision to dismiss a statutory officer (referred to in (a) above) must be taken by Full Council who must consider any advice, views or recommendations from an independent panel, the conclusions of any investigation into the proposed dismissal and any representations from the officer concerned (as per the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015).

The independent panel must consist of at least two independent persons, who accept an invitation from the Council to sit on the panel. An independent person is someone who has been appointed by the Council in that capacity under the members' code of conduct regime pursuant to section 28 (7) of the Localism Act 2011.

When appointing to the panel, which must be in place at least 20 days before the meeting at which the decision to dismiss will be taken, the Council must do so in the following order:

- an independent person appointed by the Council and who is an elector in the Council's area;
  - any other independent person who has been appointed by the Council; and
  - an independent person who has been appointed by another council or councils.
- (c) Councillors will not be involved in disciplinary action against or the dismissal of any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action. Such disciplinary action will be undertaken by the Head of Paid Service or any officer nominated by him.
- (d) Dismissal decisions relating to chief officers must not be made unless the Head of Paid Service or an officer nominated by him has notified every member of the Cabinet of the name of and other relevant particulars relating to the person about to be dismissed and the Leader has notified the relevant officer that the Cabinet has no objection to the dismissal or any objection it has is either not material or not well founded.

## **7. Dismissal**

- (a) Councillors will not be involved in the dismissal of any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time, and may allow a right of appeal to members in respect of dismissals.