



Meeting: **Constitution Committee**

Date/Time: **Tuesday, 9 September 2014 at 2.00 pm**

Location: **Executive Room, County Hall, Glenfield**

Contact: **Mrs R. Palmer (Tel: 0116 305 6098)**

Email: **rosemary.palmer@leics.gov.uk**

Membership

Dr. R. K. A. Feltham CC Mr. J. B. Rhodes CC
Mr. S. J. Galton CC Mr. N. J. Rushton CC
Mr. Max Hunt CC

AGENDA

<u>Item</u>	<u>Report by</u>
1. Election of Chairman.	
2. Appointment of Deputy Chairman	
Mr. N. J. Rushton was nominated Chairman elect at the Annual Meeting of the County Council held on 21 May 2014.	
3. Minutes of the meeting held on 24 September 2013	(Pages 3 - 4)
4. Question Time	
5. Questions asked under Standing Order 7(3) and 7(5).	
6. Urgent Items	
7. Declarations of interest.	
8. Review and Revision of the Constitution	Report of the Chief Executive (Pages 5 - 20)



9. Date of Next Meeting

The next meeting will be held on 24 September 2014 at 2.30pm

10. To advise of any other items which the Chairman has decided to take as urgent.



Minutes of a meeting of the Constitution Committee held at County Hall, Glenfield on Tuesday, 24 September 2013.

PRESENT

Mr. N. J. Rushton CC (in the Chair)

Dr. R. K. A. Feltham CC
Mr. S. J. Galton CC

Mr. Max Hunt CC
Mr. J. B. Rhodes CC

12. Minutes.

The minutes of the meeting held on 12 June 2013 were taken as read, confirmed and signed.

13. Question Time.

The Chief Executive reported that no questions had been received under Standing Order 35.

14. Questions asked under Standing Order 7(3) and 7(5).

The Chief Executive reported that no questions had been received under Standing Order 7(3) and 7(5).

15. Urgent Items.

There were no urgent items for consideration.

16. Declarations of interest.

The Chairman invited members who wished to do so to declare any interest in respect of items on the agenda for the meeting.

No declarations were made.

17. Statement of Accounts and Annual Governance Statement 2012/13.

The Committee considered a report of the Director of Corporate Resources which presented the 2012/13 Statement of Accounts for approval, provided information on the main areas of the accounts and reported the key findings from the external audit of the accounts. A copy of the report marked 'Agenda Item 6' is filed with these minutes.

It was noted that the Corporate Governance Committee had considered a report the Council's external auditors on the statement of accounts. The Committee had given its support, subject to two minor drafting amendments.

Members paid tribute to officers for their management of County Council finances, the quality of which had been commended by the Council's external auditors.

Arising from discussion the following queries were raised:-

- (i) The deterioration of the pension liability was of concern but the County Council's level of funding when compared to other local authorities was average. Since the close of the 2012/13 financial year there had been some improvement in the proportion of the Pension Scheme which was funded and it was expected that, in the long term, the Scheme would return to being 100 percent funded.
- (ii) The County Council was treating the Local Authority Mortgage Fund advance as capital expenditure, in accordance with professional advice received from its Treasury Management advisors, Sector. However, the external auditor had advised that it should be treated as revenue expenditure reflecting guidance received from the Audit Commission. There were differing viewing nationally and the Audit Commission was seeking legal advice on the correct treatment of such matters, which was awaited. The Committee was advised that the final decision would not have any great impact on the County Council.
- (iii) £7.4m had so far been advanced to Lloyds TSB for the Local Authority Mortgage Scheme. In the previous week, Lloyds TSB had advised that it was putting the scheme on hold as funding from the national government had now been made available. Members would be updated on this issue in due course.
- (iv) The transfer of assets from the County Council to Academies was not having an impact on the County Councils ability to raise funding as it was a tax raising body and could fund borrowing from revenue. However, the transfers did show a reduction in fixed assets owned by the County Council.
- (v) The East Midlands Shared Services scheme had gone live in April 2014. Some teething problems were still being experienced. Once these problems had been resolved it was intended that the scheme would be marketed to other Councils.

RESOLVED:

That the Statement of Accounts for 2012/13 be approved.

2.00 - 2.15 pm
24 September 2013

CHAIRMAN



CONSTITUTION COMMITTEE – 9 SEPTEMBER 2014

REPORT OF THE CHIEF EXECUTIVE

REVIEW AND REVISION OF THE CONSTITUTION

Purpose

1. The purpose of this report is to recommend changes to the Constitution as part of this year's annual review.

Background

2. Article 15 of the County Council's Constitution gives the Chief Executive a duty to monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. It requires that changes to the document should only be approved by the full County Council after consideration of the proposal by the Chief Executive and the Constitution Committee or, in the case of the Financial Procedure Rules and Contract Procedure Rules, the recommendations of the Corporate Governance Committee.
3. In the case of everything except the Meeting Procedure Rules the final decision on changes can be made at a single meeting of the County Council. However, in the case of the Meeting Procedure Rules any motion to add, to vary or revoke Standing Orders must, having been proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.
4. The Constitution has been reviewed on an annual basis every year since it came into effect in June 2001. This report sets out the results of the latest review. Proposed changes to the Contract Procedure Rules, Financial Procedure Rules and the Members' Planning Code of Good Practice arising from the review will be considered by the Corporate Governance Committee and reported to the County Council at its meeting in December. The Development Control and Regulatory Board will also consider the Members' Planning Code of Good Practice.
5. The proposed changes to the Constitution are set out in the following documents:-

Proposed Amendments to the Constitution of Leicestershire County Council – Appendix 1
 Proposed Amendments to the Plans and Strategies forming the Policy Framework – Appendix 2

5. The majority of the changes are not particularly significant. Most of them reflect changes in the law or the Council's structure and practices. The Committee's attention is drawn to the following:-

Health and Wellbeing Board

6. The terms of reference for the Health and Wellbeing Board have been amended to reflect the decision taken by the Cabinet in February to delegate the function of approving the Better Care Fund and Plans arising from its use.

Panels

7. The list of Panels included in Section E of Part 3 of the Constitution, Responsibility for Functions, has been amended to reflect the creation of three new Panels for Children's Social Care. These Panels have been created to ensure accountability and member oversight of the whole range of children's social care services and have replaced the Children's Community Homes Monitoring Panel.

Voting

8. The Meeting Procedure Rules have been amended to reflect the new legislative requirement that a recorded vote must be taken at the budget meeting of the County Council on any motion or amendment which affects the precept set by the County Council.

Rights to Attend Meetings

9. The Access to Information Procedure Rules have been amended to permit members of the public to report on procedures at public meetings, including by recording the meeting or commentating on social media. This reflects new legislation.

Plans and Strategies forming the Policy Framework

10. The list of plans and strategies forming the Policy Framework has been reviewed to ensure that it reflects both current legislation and current practice within the County Council. Those Plans or Strategies which are no longer required have been removed from the list and it is suggested that those Plans or Strategies which are reviewed on an infrequent basis are determined by the Executive rather than reported to full Council.

Overview and Scrutiny Committees would still be expected to be involved in the review of these Plans.

Recommendation

11. That the County Council be recommended to approve the proposed changes to the Constitution as set out in Appendices 1 and 2 to this report.

Background Papers

The Constitution of Leicestershire County Council.
Report to the Cabinet on 4th February 2014 on the Better Care Fund

Circulation under Local Issues Alert Procedure

None.

Officers to Contact

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Equal Opportunities and Human Rights Implications

None.

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**PROPOSED AMENDMENTS TO THE CONSTITUTION
OF LEICESTERSHIRE COUNTY COUNCIL
SEPTEMBER 2014**

<u>ITEM</u>	<u>PROPOSED AMENDMENT</u>	<u>EXPLANATION</u>
<u>PART 1 - SUMMARY AND EXPLANATION</u>	<p>Amend paragraph 9 to read as follows:-</p> <p>“9. Those county councillors who are not members of the Executive make a contribution to the operation of the County Council through membership of the County Council’s committees (some of which are called “boards”) – in the “Regulatory” and “Overview and Scrutiny” areas. The board and committees in the Regulatory area will take decisions on “non-executive” functions (such as licensing, planning, elections and members’ code of conduct and allowances) which are outside the scope of the Executive. Many of the day-to-day decisions within the Regulatory area will, in practice, be taken by professional officers acting in accordance with published schemes of delegation but ultimately still accountable to the relevant board or committee or the full County Council depending on the decision involved.”</p> <p>Change the telephone number given in paragraph 28 to 0116 305 6037.</p>	<p>For clarification.</p> <p>To reflect staff changes.</p>

<p><u>PART 2 - ARTICLES</u></p> <p>Article 7 – The Executive</p> <p>7.04 Designation of Deputy Leader and Lead Member</p>	<p>Amend the second paragraph to read as follows:-</p> <p>“The Leader will also designate two members of the Executive respectively to act as Lead Member for Children and Family Services and Lead Member for Adult Social Care”.</p>	<p>To reflect the Cabinet Lead Member titles</p>
<p>Article 7A – The Health and Wellbeing Board.</p> <p>7A.01 Health and Wellbeing Board</p> <p>7A.03 Role and Function</p>	<p>Amend the note to read as follows:-</p> <p><i>[Note: The County Council’s executive function of approving the Better Care Fund and Plans arising from its use has been delegated to the Health and Wellbeing Board.]</i></p> <p>Amend to read as follows:-</p> <p>“To lead and direct work to improve the health and wellbeing of the population of Leicestershire through the development of improved and integrated health and social care services by:-</p> <p>(a) Identifying needs and priorities across Leicestershire, and publishing and refreshing the Leicestershire Joint Strategic Needs Assessment (JSNA) so that future commissioning/policy decisions and priorities are based on evidence.</p> <p>(b) Preparing and publishing a Joint Health and Wellbeing Strategy and Plan on behalf of the County Council and its partner clinical commissioning groups so that work is done to meet the needs identified in the JSNA in a co-ordinated, planned and measurable way.</p> <p>(c) Communicating and engaging with local people in how they can achieve the best possible quality of life and be</p>	<p>To reflect the role of the Health and Wellbeing Board in relation to the Better Care Fund</p>

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	<p>supported to exercise choice and control over their personal health and wellbeing.</p> <p>(d) Approving the Better Care Fund Plan including a pooled budget used to transform local services so people are provided with better integrated care and support together with proposals for its implementation.</p> <p>(e) Having oversight of the use of relevant public sector resources to identify opportunities for the further integration of health and social care services.”</p> <p><i>[Note: More detailed working arrangements relating to the operation of the Health and Wellbeing Board are set out on the County Council website at www.leics.gov.uk/healthwellbeingboard.]</i></p>	
<p>Article 15 – Review and Revision of the Constitution</p> <p>15.02 Changes to the Constitution</p>	<p>Amend to read as follows:-</p> <p>“Approval. Changes to the Constitution will only be approved by the full County Council after consideration of the proposal by the Chief Executive and the Constitution Committee and/or Corporate Governance Committee and/or Employment Committee as appropriate; provided that the Chief Executive is authorised to update any part of this Constitution in respect of changes in the Management Structure and Part 9 of this Constitution for the purpose of formally recording any changes in, or additions to, the specific delegations to officers made by the County Council, the Executive or a Regulatory Board or committee. Proposals for changes to the Meeting Procedure Rules in Part 4(A) of this Constitution must comply with the process prescribed in those Rules.”</p>	<p>To recognise the role of the Employment Committee in making recommendations to the Council on the Employee Code of Conduct.</p>

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<p><i>Schedule 2 – Plans and Strategies forming the Policy Framework</i></p> <p>Schedule 3 – Table A</p>	<p>See Appendix B</p> <p>Amend paragraph 3 of the scope of the Children and Families Overview and Scrutiny Committee as follows:-</p> <p>“3. To monitor the performance and activities of any partnerships that are associated with the executive functions outlined in 1. and 2. Above.”</p> <p>Amend paragraph 3 of the scope of the Environment and Transport Overview and Scrutiny Committee as follows:-</p> <p>“3. To monitor the performance and activities of any partnerships that are associated with the executive functions outlined in 1. and 2. above.”</p>	<p>To reflect the status of the plans and strategies.</p> <p>To reflect changes to the partnership structure.</p>
<p><u>PART 3 - RESPONSIBILITY FOR FUNCTIONS</u></p> <p>Section C: Responsibility for Executive and Health and Wellbeing Functions</p> <p>Joint Arrangements</p>	<p>For the Eastern Shires Purchasing Organisation (ESPO) arrangements, remove reference to Leicester City Council and amend the powers that have been delegated to the joint committee to read as follows:-</p> <p>“(i) Provide a comprehensive cost effective professional purchasing service based on the overall requirements of the Member Authorities (and Customers where applicable);</p> <p>(ii) To maintain effective efficient and economical</p>	<p>To reflect changes in the membership of the consortium.</p> <p>To reflect the updated partnership agreement.</p>

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	<p>arrangements for the supply of goods and/or services;</p> <p>(iii) To achieve overall cost savings and efficiencies for the Member Authorities by providing a simple effective system for the supply of goods and/or services;</p> <p>(iv) To provide timely and relevant information to the Member Authorities based on their requirements; and</p> <p>(v) To provide the ESPO Services [defined in Schedule 2 to the Partnership Agreement] to the Member Authorities (and Customers where applicable) based on their requirements.”</p>	
<p>Section D: General Scheme of Delegation to Heads of Departments</p>	<p>Amend paragraph (c) of the note to read as follows:-</p> <p>“(c) That in respect of the proper officer functions and other delegated powers and functions allocated to the Chief Executive and County Solicitor, the following officers be authorised to act in their absence:-</p> <p>County Solicitor (in own right and on behalf of Chief Executive) Assistant Chief Executive Head of Democratic Services Head of Legal Services (Children, Adult Services and Litigation) Head of Legal Services (Property, Environment and Commercial).”</p> <p>Amend paragraph 20 to read as follows:-</p> <p>“20. Personnel procedures: power for heads of departments to take decisions relating to employment matters delegated to them from time to time in accordance with the local conditions of service and</p>	<p>To reflect staffing changes.</p> <p>For clarification</p>

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	<p>other personnel policies and procedures. The Chief Executive may determine from time to time those matters which may be exercised by the head of department.”</p>	
<p>Section E: Panels</p>	<p>Delete paragraph (c) and replace with the following:-</p> <p>(c) Children’s Social Care Panel: To provide strategic oversight at elected member level of children’s social care issues, having particular regard to the following areas:- (i) Children in Care; (ii) Child Protection; (iii) Partnership Working.</p> <p>(d) Children in Care Panel: To provide assurance at elected member level that the County Council is discharging its duties in relation to children in care, having particular regard to the following:- (i) Corporate Parenting; (ii) Education of Children in Care; (iii) Consideration of children and young people causing the most concern, such as those in Secure Accommodation; (iv) Standards in Fostering, Adoption and Community Homes provided by or commissioned by the County Council.</p> <p>(e) Child Protection Panel: To provide assurance at elected member level that the County Council is discharging its duties in relation to child protection, having particular regard to the following:- (i) That the response is proportionate; (ii) That the emergency response is appropriate and</p>	<p>To reflect changes to the Panels with oversight of children’s social care issues in the light of the new Ofsted Inspection Framework.</p>

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	<p>effective;</p> <p>(iii) The long term maintenance of child safety;</p> <p>(iv) That lessons are learnt from local and national sources.”</p> <p>Re-number remaining paragraphs accordingly.</p> <p>Amend existing paragraph (e) to read as follows:-</p> <p>“(e) Secure Accommodation Review Panel: to consider the appropriateness of the use of secure accommodation in respect of individual children.</p>	
<p><u>PART 4A – MEETING PROCEDURE RULES (STANDING ORDERS)</u></p> <p>Standing Order 28: Voting</p>	<p>Insert the following paragraph after paragraph 3:-</p> <p>“(4) A vote on any proposition at a budget meeting which relates to the calculation of or the issuing of the precept shall be recorded in the minutes of the meeting so as to show whether each member present gave his or her vote for or against the proposition or abstained from voting.”</p> <p>Re-number remaining paragraphs accordingly</p>	<p>To comply with Government Regulations which require local authorities to amend their Standing Orders so as to include provisions requiring recorded votes at budget meetings.</p> <p>This amendment will stand adjourned until the December meeting of the County Council.</p>
<p>Standing Order 30: Interests in contracts and other matters.</p>	<p>Amend as follows:-</p> <p>“If any member of the Council has any interest under the County Council’s Code of Conduct in any contract, proposed contract, or other matter, that member shall declare that interest and withdraw from the meeting while the contract, proposed contract, or other matter, is under consideration by</p>	<p>Reference to pecuniary interest no longer applicable.</p> <p>This amendment will stand adjourned until the December meeting of the County Council.</p>

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	the Council unless the disability to discuss that matter imposed upon him or her by the Code has been removed by the Corporate Governance Committee.”	
Note after Meeting Procedure Rules	<p>Add the following to the list of meetings determined for the purposes of Standing Order 34(2):</p> <p>“Children’s Social Care Panel Children in Care Panel Child Protection Panel</p> <p>Delete reference to Children’s Community Homes and Service Teams Monitoring Panel.</p>	Redistribution of functions.
<p><u>PART 4B: ACCESS TO INFORMATION PROCEDURE RULES</u></p> <p>Rule 3: Rights to attend meetings</p>	<p>Amend to read as follows:-</p> <p>“(1) Members of the public may attend all meetings subject only to the exceptions in these Rules.</p> <p>(2) Members of the public attending meetings not covered by the exceptions in these rules shall be permitted to report on the proceedings of such meetings. Such reporting shall include filming or providing a commentary on proceedings using social media tools, providing that any such reporting does not cause obstruction so as to render the due and orderly despatch of business impossible.”</p>	To reflect changes in legislation

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<p><u>PART 6 – MEMBERS’ ALLOWANCES SCHEME</u></p> <p>Schedule 2</p>	<p>Delete (i) from the list of General County Council duties and renumber the remaining paragraphs accordingly.</p>	<p>Redistribution of functions.</p>

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SCHEDULE 2***Plans and Strategies forming the Policy Framework (Article 4.01)*****In accordance with Local Authorities (Functions and Responsibilities) (England) Regulations 2000:**

- 1 Community Safety Strategy.
- 2 The Leicestershire Sustainable Community Strategy.
- 3 Local Transport Plan, including:
 - (a) Leicestershire Local Transport Plan;
 - (b) Central Leicestershire Local Transport Plan.
- 4 Plans and Strategies which form part of the Development Framework:
 - (a) Minerals Development Framework;
 - (b) Waste Development Framework.
- 5 Youth Justice Plan.

By local choice:

- 6 Annual Performance Report.
- 7 Annual Report of the Director of Public Health.
- 8 Code of Corporate Governance.
- 9 Corporate Parenting Policy.
- 10 County Council Strategic Plan.
- 11 Equality, Diversity and Human Rights Strategy.
- 12 Medium Term Financial Strategy.
- 13 Planning Obligations Policy.

*[Note: the following Plans, which are listed here solely for the sake of completeness, do **not** form part of the Policy Framework:*

Plans determined by the Executive:

- | | |
|----------|---|
| <i>A</i> | <i>Agreed Syllabus on Religious Education.</i> |
| <i>B</i> | <i>Anti Social Behaviour Reduction Strategy.</i> |
| <i>C</i> | <i>Biodiversity Action Plan.</i> |
| <i>D</i> | <i>Carbon Management Plan.</i> |
| <i>E</i> | <i>Communications Strategy.</i> |
| <i>F</i> | <i>Communities Strategy.</i> |
| <i>G</i> | <i>Commissioning and Procurement Strategy.</i> |
| <i>H</i> | <i>Corporate Asset Management Plan.</i> |
| <i>I</i> | <i>Design Guide.</i> |
| <i>J</i> | <i>Domestic Violence Reduction Strategy.</i> |
| <i>K</i> | <i>Enabling Growth Plan.</i> |
| <i>L</i> | <i>Enforcement Programme for Underage Sales of Tobacco Products and Aerosol Paints.</i> |
| <i>M</i> | <i>Environment Strategy.</i> |
| <i>N</i> | <i>Fair Funding (Local Management of Schools) Scheme.</i> |

O	<i>Information and Technology Strategy.</i>
P	<i>Leicestershire Rural Framework.</i>
Q	<i>Local Transport Plans Progress Reports.</i>
R	<i>Municipal Waste Management Strategy.</i>
S	<i>People Strategy.</i>
T	<i>Planning Charter.</i>
U	<i>Risk Management Policy and Strategy.</i>
V	<i>Road Safety Plan.</i>
W	<i>Sports Strategy.</i>
X	<i>Statement of Community Involvement (Minerals and Waste Development Frameworks and Planning Applications).</i>
Y	<i>Sustainable Development Appraisal Scheme.</i>
Z	<i>Tree Management Strategy.</i>
ZA	<i>Walking and Cycling Strategies.</i>

Plans determined by the Health and Wellbeing Board:

ZB	<i>Better Care Fund Plan.</i>
ZC	<i>Joint Health and Wellbeing Strategy.</i>
ZD	<i>Joint Strategic Needs Assessment.</i>
ZE	<i>Pharmaceutical Needs Assessment.</i>