

**PROPOSED AMENDMENTS TO THE CONSTITUTION
OF LEICESTERSHIRE COUNTY COUNCIL
SEPTEMBER 2005**

<u>ITEM</u>	<u>PROPOSED AMENDMENT</u>	<u>EXPLANATION</u>
<p>ARTICLE 6 OVERVIEW AND SCRUTINY COMMITTEE</p> <p>6.05 Chairman of Scrutiny Commission</p>	<p>Amend Article 6.05 to read as follows:-</p> <p>“The Chairman of the Scrutiny Commission will be the Leader of the largest opposition group. Where there are two opposition groups with an equal number of seats, chairmanship of the Scrutiny Commission shall rotate between those groups on an annual basis, normally effective from the annual meeting of the Council. Unless agreement is reached otherwise, the order in which the chairmanship is allocated between the opposition groups will be determined by the toss of a coin.”</p>	<p>The Constitution is currently silent on what should happen in the case of two opposition groups having an equal number of seats on the Council.</p>
<p>ARTICLES OF THE CONSTITUTION (PART 2)</p> <p>The Corporate Governance Committee</p>	<p>Add new Article 9A as follows:-</p> <p>“ARTICLE 9A The Corporate Governance Committee</p> <p>9A.01. Corporate Governance Committee</p> <p>The full County Council will establish a Corporate Governance Committee.</p>	<p>To provide for the establishment of a Corporate Governance (“Audit”) Committee, outline its main purpose and set out conditions of membership.</p>

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	<p>9A.02. Composition</p> <p>(a) The Corporate Governance Committee will reflect the political balance on the Council as a whole and may not include the Leader of the Council. The Committee may not include more than one member who is either a member of the Executive or a Cabinet Support Member and that member may not act as Chairman. The Chairman of the Resources Scrutiny Committee (or any successor body) will be ex officio one of the members of the Committee.</p> <p>(b) The Lead Member of the Executive responsible for resources, performance management and risk management will be entitled to attend meetings in an observer/advisory capacity unless appointed to the Committee under paragraph (a) above.</p> <p>9A.03 Role and Function</p> <p>The Corporate Governance Committee shall have the following general role and functions:</p>	

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	<p>(a) The promotion and maintenance within the Authority of high standards in relation to the operation of the Council's Code of Corporate Governance with a particular emphasis on ensuring</p> <ul style="list-style-type: none"> (i) that an adequate risk management framework and associated control environment is in place; (ii) that the Authority's financial and non financial performance is properly monitored; (iii) proper oversight of the financial reporting processes. <p>(b) To ensure that the Council's Code of Corporate Governance is reviewed and amended by the County Council as necessary to ensure that it remains relevant to the Council's work and practices.</p> <p>(c) To satisfy themselves that the County Council's Statement of Accounts and those relating to the Leicestershire Pension Fund have been prepared in accordance with best practice.</p>	

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	<p>9A.04 Terms of Reference</p> <p>The detailed terms of reference of the Corporate Governance Committee can be found in the Section on Responsibility for Functions contained in Part 3 of this Constitution.</p>	
<p>ARTICLES OF THE CONSTITUTION SCHEDULE 2</p> <p>Plans and Strategies forming the Policy Framework</p>	<p>Add “Code of Corporate Governance” under “By Local Choice” provisions.</p>	<p>There was no such Code when the Constitution was prepared. However the present Code was agreed by the County Council in 2003 and this action will therefore reflect practice.</p>
<p>RESPONSIBILITY FOR FUNCTIONS (PART 3)</p>	<p>Add following after “Standards Committee” terms of reference.</p> <p>“Corporate Governance Committee</p> <ol style="list-style-type: none"> 1. The Corporate Governance Committee shall not have power to appoint subcommittees. 2. The extent to which the non-executive powers within the Committee’s remit have been delegated to chief officers, either by the full County Council or by the Committee (or by any of the bodies previously charged with the functions now within its remit), will be found: 	<p>To put in place detailed arrangements for the establishment of a Corporate Governance (“Audit”) Committee.</p>

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	<p>(a) in the general scheme of delegation to heads of departments which appears in Section D of this Part; and</p> <p>(b) in the record of specific delegations maintained by the Chief Executive for public inspection at County Hall and which constitutes Part 9 of this Constitution.</p> <p>3. Subject to the delegations described in paragraph 2, the functions delegated to the Committee shall be:</p> <p>(a) The promotion and maintenance of high standards within the Authority in relation to the operation of the Council's Code of Governance and in particular to ensure:-</p> <p>(i) that an adequate risk management framework and associated control environment is in place;</p> <p>(ii) that the Authority's financial and non financial performance is properly monitored;</p> <p>(iii) proper oversight of the financial reporting processes.</p>	

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	<p>(b) To review the Council's Code of Governance as necessary and make recommendations to the County Council to ensure that it remains relevant to the Council's work and practices.</p> <p>(c) To satisfy themselves that the County Council's Statement of Accounts and those relating to the Leicestershire Pension Fund including the County Council's Statement of Internal Control have been prepared in accordance with best practice.</p> <p>(d) To make recommendations to the County Council either directly or via the Constitution Committee on any amendments required to the Financial Procedure Rules and Contract procedure Rules set out in Parts 4F and 4G of this Constitution and to make such changes as are considered necessary to the Standard Financial Instructions.</p> <p>(e) To monitor the adequacy and effectiveness of the external audit of the Council's services and functions and to:-</p>	

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	<ul style="list-style-type: none"> (i) consider the nature and scope of the external audit of the Council's services and functions; (ii) consider external audit reports and management letters; (iii) monitor the County Council's response to the external auditors findings and the implementation of external audit recommendations: (f) To monitor the adequacy and effectiveness of the Internal Audit Service and to:- <ul style="list-style-type: none"> (i) consider the annual Internal Audit plan; (ii) monitor progress against the plan through the receipt of periodic progress reports and an annual Internal Audit report; 	

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	<ul style="list-style-type: none"> <li data-bbox="936 231 1355 336">(iii) consider major Internal Audit findings and recommendations; <li data-bbox="936 379 1355 555">(iv) monitor the response to major Internal Audit findings and the implementation of its recommendations. <li data-bbox="862 598 1406 774">(g) Monitor the effectiveness of officer arrangements for ensuring an adequate internal control environment and combating fraud and corruption. <li data-bbox="862 817 1413 960">(h) Monitor the arrangements for the identification monitoring and management of strategic and operational risk within the Council. <li data-bbox="862 1003 1391 1179">(i) To liaise with the Executive, Scrutiny bodies and Standards Committee as appropriate on matters of corporate governance and financial accountability. <li data-bbox="862 1222 1402 1366">(j) Advising on training for members of the Council on matters relating to the Corporate Governance of the Authority.” 	

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Paragraph 5 – Panels	<p>Add the following under paragraph 5 – Panels which are appointed by the Chief Executive:-</p> <p>“(J) Manufacture and Storage of Explosives Panel: To consider, through public hearings, representations about applications to the Health and Safety Executive under the Manufacture and Storage of Explosives Regulations 2005 and to determine whether or not to give the County Council’s assent to those applications.”</p>	<p>The Manufacture and Storage of Explosives Regulations 2005 introduce a revised system of control on the manufacture and storage of explosives.</p> <p>The process involves a consent being issued by the HSE but there is a stage in the process that involves the County Council.</p> <p>The applicant having submitted his application to the HSE will if the HSE is minded to grant approval to receive from them a draft approval. He must then contact the County Council to obtain their “assent”. The applicant does this by submitting a copy of his application to the County Council and publishing a notice to the effect that he has done so. Any person opposed to the grant of a licence can then lodge an objection with the County Council within 28 days of that notice. If within that period the County Council receives representations about the application it must, before deciding whether to give its “assent”</p>

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		<p>to the application, hold a public hearing. This hearing has to take place not more than 4 months from the date on which it received a copy of the application.</p> <p>In deciding whether to grant its assent the County Council is only able to take account of Health and Safety matters.</p> <p>The responsibilities under the 2005 Regulations therefore fall to be a responsibility for the Development Control and Regulatory Board. However, it would not be appropriate to deal with this in full open committee and is it is proposed to establish a Panel to determine these matters. This would be similar to the one for Marriage Premises.</p> <p>It is important to establish these arrangements now because the County Council has already received an objection to an application.</p>

<u>ITEM</u>	<u>PROPOSED AMENDMENT</u>	<u>EXPLANATION</u>
<p>OVERVIEW AND SCRUTINY PROCEDURE RULES (PART 4E)</p> <p>Rule 9 – Reports from Overview and Scrutiny Committees dealing with County Council functions on proposals for development.</p>	<p>Amend Rule 9 to read as follows:-</p> <p style="text-align: center;">RULE 9</p> <p style="text-align: center;">Reports from overview and scrutiny committees dealing with County Council functions on proposals for development.</p> <p>(a) Once it has formed recommendations on proposals for development, the overview and scrutiny committee will submit these for consideration by the Executive (if the proposals are consistent with the existing Budget and Policy Framework), or to the County Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).</p> <p>(b) If an overview and scrutiny committee cannot agree on one single response to the County Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the County Council or Executive alongside the committee's recommendations.</p>	<p>In the light of recent experience, to clarify the requirements relating to minority reports.</p>

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	<p>(c) The basis of any minority report prepared under paragraph (b) above must have been discussed and been the subject of a proposal at the meeting of the committee and must have had the support of more than one member.</p> <p>(d) The County Council or Executive shall consider the recommendations of the overview and scrutiny committee within two months of them being arrived at.”</p>	
<p>PART 4F FINANCIAL PROCEDURE RULES</p> <p>Rule 1 - Application of Rules</p>	<p>(i) Amend final sentence of paragraph (a) to read:-</p> <p>“Amendments to the Rules will be made by the County Council on the recommendations of the Corporate Governance Committee.”</p> <p>(ii) Amend the second sentence of paragraph (b) to read:-</p> <p>“The County Council or Corporate Governance Committee on its behalf, may make, amend or revoke the Standard Financial Instructions and the Executive will be responsible for ensuring that they are followed.”</p>	<p>To reflect established practice and the proposed establishment of a Corporate Governance Committee.</p>

<u>ITEM</u>	<u>PROPOSED AMENDMENT</u>	<u>EXPLANATION</u>
Rule 2 – Responsibility of the Director of Resources	Amend paragraph (b) to read:- “(b) Having informed both the executive and Corporate Governance Committee, the Director of Resources will report to the full Council if in his opinion any significant failure in the proper administration of the Council’s affairs is occurring.”	To reflect established practice and the proposed establishment of a Corporate Governance Committee.
Rule 4 – Application to Subsidiary accounts	Delete the words “made by the Executive” in the first sentence.	Consequential.
Rule 13 - Accountability and performance		Consequential.
Rule 26- Inventories of Assets	Substitute “Corporate Governance Committee” for “Executive” in paragraph (b).	Consequential.
Rule 27 – Stocks and Shares	Substitute “Corporate Governance Committee” for “Executive” in paragraph (b).	Consequential

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	<p>(b) The Director of Resources may agree the carry forward of an underspending on all budgets subject to any guidelines laid down by the Executive. He or she may do this only when the total departmental budget is underspent by more than the requested carry forward.</p> <p>(c) Within an approved budget line special rules may apply to carrying forward over or underspendings. An example of these is local management of schools. The relevant Guidance Manuals will include the limits on types of carry forwards.</p>	<p>Unchanged.</p>

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