

APPENDIX

**PROPOSED AMENDMENTS TO THE CONSTITUTION
OF LEICESTERSHIRE COUNTY COUNCIL
SEPTEMBER 2019**

<u>ITEM</u>	<u>PROPOSED AMENDMENT</u>	<u>EXPLANATION</u>
<u>PART 2 - ARTICLES</u>		
Article 2 – Members of the County Council (<i>Article 2.03 – Roles and functions of all county councillors</i>)	Add the following new function to paragraph (b): 10. fulfil their responsibilities as a corporate parent for children and young people in the care of the local authority.	To meet the recommendation of the Scrutiny Review Panel on Corporate Parenting.
Article 4 – The full County Council (<i>Article 4.02 – Functions of the full County Council</i>)	Amend paragraph 4.02(a) to read “adopting and changing the Constitution except in respect of changes made by the Chief Executive in accordance with Article 15.”	To cross refer to the provision in Article 15.02 permitting the Chief Executive to amend the Management Structure and Part 9 (specific delegations to officers) of the Constitution.
Article 12 – Officers (<i>Article 12.02 – Functions of the Head of Paid Service</i>)	Add the following Note following paragraph (c): <i>[Note: In accordance with Section D, Part 3 of this Constitution, the Head of Paid Service in his or her capacity as the Chief Executive will -</i> <i>(a) make consequential amendments to the specific delegations to chief officers as are contained in Part 9 of this Constitution to reflect changes in legislation and ensure that the delegation remains fit for purpose.</i>	To cross refer to general delegations to the Chief Executive set out in Part 3 of the Constitution.

	<p><i>[Note: Article 15.02 authorises the Chief Executive to update this part of the Constitution without the need to refer such matters to full Council for approval.]</i></p> <p>(b) <i>take action between meetings on matters which he or she considers is urgent.]</i></p>	
(Article 12.03 – Functions of the Monitoring Officer)	<p>Add the following Function:</p> <p>(j) Appointment of Assistant Coroners. The Monitoring Officer will confirm the appointment of Assistant Coroners in accordance with legislation in force for the time being.</p>	To record an existing function of the Monitoring Officer.
Article 13 – Decision Making	<p>Add the following:</p> <p>13.09 Decision-making between meetings: The Chief Executive will take action between meetings which he or she considers is urgent in accordance with the provisions set out in Section D, Part 3 of this Constitution.</p>	To cross reference to the existing delegated power to the Chief Executive contained in Part 3 of the Constitution.
Article 14 – Finance, contracts and legal matters (Article 14.04 – Authentication of documents)	<p>Amend article 14.04 to read as follows –</p> <p>(a) The Director of Law and Governance and such officers as are authorised by him/her are authorised generally to seal, sign, authenticate, attest and issue any notice, order or other document (including documents required for legal proceedings) on the Council's behalf including by electronic means, unless an Act of Parliament requires some other person to do so, or the Council gives authority to some other person.</p> <p>(b) Any contract with a value exceeding the limit provided for in Part 4G of this Constitution (the Contract</p>	To enable the use of electronic signatures on contracts.

	<p>Procedure Rules) entered into on behalf of the County Council shall be made in writing. Such contracts must either be signed (by electronic means or otherwise) or, in cases determined by the Director of Law and Governance or where it is otherwise required in law, made under the Common Seal of the County Council in a form to be determined or approved by him/her.</p>	
Schedule 2: Plans and Strategies forming the Policy Framework	Delete existing schedule and replace with Appendix 1.	The Policy Framework has been reviewed to ensure alignment with the Strategic Plan and Council priorities.
<u>PART 3 - RESPONSIBILITY FOR FUNCTIONS</u>		
<p>Section B: Responsibility for “County Council” Functions</p> <p><i>Leicestershire Local Pension Board</i></p>	Delete the entire section relating to the ‘Leicestershire Local Pension Board’.	The Board is a body of the administering authority of the Leicestershire County Council Pension Fund, not the County Council, and so has been removed from the County Council’s Constitution. The Boards Terms of Reference have been amended to reflect this in line with Regulations.
<i>Delegation to and from other local authorities</i>	<p>Delete the following delegations:</p> <p>Criminal Justice Substance Misuse Treatment Provision</p> <p>The Cabinet has delegated to Leicester City Council on 7 September 2010 so much of the County Council’s health-related functions as may be necessary to enable the City Council to lead on the procurement exercise to commission the criminal justice drug treatment services</p>	The delegations are no longer required.

and to take a lead role in managing the service level agreements within the Joint Commissioning Arrangements and to manage a pooled budget in respect of the services.

Community Care Assessments for Substance Misuse Residential Rehabilitation Placements

The Cabinet has delegated to Leicester City Council on 6 March 2013 the relevant social care functions to allow the City Council to continue to undertake community care assessments and provide care management services to persons with substance misuse problems who are located in the Leicestershire area and are seeking placement in residential rehabilitation facilities.

Amend the following delegation to read as follow:

Trading Standards Functions and Responsibilities

The Cabinet has delegated to Birmingham City Council on 5 April 2011 the functions of investigating, administering and enforcing the legislation and offences at common law in so far as those relate to or arise from investigations into illegal money lending activities within Leicestershire, including the power to institute legal proceedings in those cases, as appropriate, pursuant to section 101 of the Local Government Act 1972 in accordance with the provisions of Regulation 7 of the Local Authorities (arrangements for the Discharge of Functions) (England) Regulations 2012 and Sections 13 and 19 of the Local Government Act 2000.

To refer to the up to date 2012 Regulations.

<p>Section D: General Scheme of delegation to heads of departments</p>	<p>Change heading of Section D to 'General Scheme of Delegation to Chief Officers'.</p> <p>Amend paragraph 5(d) to read as follows:</p> <p>(d) shall not make a new policy or amend an existing policy of the County Council as determined at elected member level except in so far as is permitted under paragraph 23 below.</p> <p>Add a new paragraph 10 as follows:</p> <p>10. Delegations to officers under a specific legislative provision will incorporate any amendment to or re-enactment of that provision.</p> <p>Following the section titled 'General conditions of delegation' add a new section as follows:</p> <p>General delegations to the Chief Executive</p> <p>Subject to the provisions of the preceding paragraphs: -</p> <p>11. Delegation to officers. Power to make such consequential amendments to any specific delegation to officers made by the County Council, the Executive or a Regulatory Board or Committee and as set out in Part 9 of this Constitution as is necessary to reflect changes in legislation and ensure that the delegation remains fit for purpose.</p> <p><i>[Note: Article 15.02 authorises the Chief Executive to update this part of the Constitution without the need to refer such matters to full Council.]</i></p>	<p>To reflect that this section includes delegations to the Chief Executive and heads of departments and other officers.</p> <p>To cross refer to the proposed new general power to allow minor amendments to be made to plans, policies and strategies as set out below.</p> <p>To ensure the operation of delegations to officers are unaffected by updates in legislation.</p> <p>To bring together those delegations noted in other parts of the Constitution which have been specifically given to the Chief Executive.</p>
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	<p>12. Urgent Decisions between meetings. Power to take action between meetings which he or she considers is urgent after consultation: -</p> <p>(a) on matters within the responsibility of the Executive, with the Leader or such other member of the Executive as may be nominated by the Leader; or</p> <p>(b) on matters within the responsibility of a relevant body or with the Chairman and relevant Group Spokesmen of the body concerned.</p> <p>Renumber paragraphs in this section accordingly.</p> <p>Amend paragraph 16 to read as follows:</p> <p>Data Protection Act 2018 and the General Data Protection Regulations 2018 – charging for subject access: power, in consultation with the Director of Corporate Resources, to exercise discretion as to what fee (if any), not exceeding any prescribed maximum, is to be required in respect of the right of access under Article 15 of the General Data Protection regulations 2016 to personal data.</p> <p>Add new paragraphs 23 and 24 as follows:</p> <p>23. County Council plans, policies and strategies: power to make such consequential amendments to any County Council plan, policy or strategy agreed at elected member level as is considered necessary to reflect changes in legislation and good practice to ensure the plan, policy or strategy remains fit for purpose.</p>	<p>To reflect a change in legislation.</p> <p>To enable heads of departments to make consequential amendments to plans, policies and strategies which have been agreed by elected members to accommodate changes in legislation and good practice.</p>
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	<p>24. Annual Review of Charges: in accordance with Standard Financial Instruction 15 (Part 4F of the Constitution) to review all charges for County Council services at least annually at the time of the preparation of the budget, to determine detailed pricing for outside work.</p>	<p>To cross refer to requirements of the Standard Financial Instructions regarding annual reviews of fees.</p>
Section E: Panels	<p>Delete paragraph 5(g) relating to the Secure Accommodation Review Panel.</p> <p>Delete paragraph 5(p) relating to the Member Reference Panel on Quality and Safeguarding in Registered Care Homes.</p>	<p>To bring the County Council in line with best practice regarding the conduct and membership of Secure Accommodation Review Panels.</p> <p>Panel no longer required.</p>
<u>PART 4A – MEETING PROCEDURE RULES (STANDING ORDERS)</u>		
Standing Order 7: Questions from Elected Members	<p>Amend paragraphs (2) and (5) to read as follows:</p> <p>(2) “At ordinary meetings of the Commission or any board or committee any member of the Council may ask the chairman of the body concerned any question on any matter in relation to which the body concerned has delegated or advisory functions....”.</p> <p>(5) “After a question has been replied to, the member who asked it may, if they are present at the meeting, ask one supplementary question.....”.</p>	<p>The current practice is for the answers to questions to be cleared with the Chairman and this is normally done at the pre-meeting held on the day of the meeting. The answer is then made available to the member prior to the start of the meeting. The amendment will allow a question to be put and answered at the meeting and recorded in the minutes even if the member is not present. Supplementary questions can only be put if the member is present at the meeting. If a member is unable to attend and wishes to clarify the answer given this can be done by requesting information via the Democratic Services Team or Chief Officer.</p>

<p>Standing Order 31: Record of attendances</p>	<p>Delete and renumber remaining Standing Orders accordingly.</p>	<p>The law provides that the names of council and co-opted members present at a local authority meeting must be recorded but does not specify that this must be done via the member signing an attendance book or sheet. A record of member attendance is included in the minutes and recorded on the Committee Management System.</p>
<p>Standing Order 35: Questions from electors at the Commission, boards or committees</p>	<p>Delete paragraph (7) and amend paragraph (6) to read as follows:</p> <p>“After a question has been replied to, the elector who asked it may, if they are present at the meeting, ask one supplementary question for the purpose of clarifying the reply which has been given. An elector asking such a supplementary question shall confine himself or herself to the substance of the original question and shall not introduce any new matter which did not fall within the scope of his or her original question. If the chairman of the meeting is of the opinion that the supplementary question is out of order, or of a personal character, or in the interests of the Council it is undesirable, he or she shall so inform the elector and shall not allow the question to be put. In paragraph (7) of this Standing Order, the word “question” shall include such a supplementary question.”</p>	<p>With the use of modern technology for recording and live-streaming committee and board meetings, the requirement that an elector must physically attend a meeting to put a question is no longer considered appropriate. The changes reflect that technology means a person no longer needs to attend the meeting to submit the question and to see the response. However, the ability to ask a supplementary question will still require the elector to be present at the meeting, though they may still seek to clarify the answer given, but this will be dealt with outside the meeting. The requirement to attend a meeting to ask questions could be seen as discriminatory against persons who work or have caring responsibilities and are unable to attend day time meetings.</p>
<p>Standing Order 36: Petitions at the Commission, boards, committees or forums</p>	<p>Amend note to read: <i>This Standing Order should be considered alongside the Petitions Scheme set out in Part 10 of the Council’s Constitution.</i></p> <p>Amend paragraph (1) to read as follows:</p> <p>Petitions may be presented at meetings of the</p>	<p>To reflect the provision in the Localism Act 2011 which leaves it to individual councils to decide whether to have a petitions procedure and the arrangements within it.</p> <p>To provide greater clarity regarding when a petition can be presented and who can present it.</p>

	<p>Commission, a board or commission in accordance with the conditions set out in the Petitions Scheme at Part 10 of the Council's Constitution. The Commission, board or committee shall receive only such petitions as have been lodged with the Chief Executive eight clear days before the meeting and are presented by a person who resides, studies or works in the County and/or is a recipient of County Council services and is associated with the petition. Petitions can also be presented by an elected member on behalf of such a person or can be considered in their absence. This Standing Order shall not apply to meetings of the Council or the Executive, subject to paragraphs (5) and (6) below.</p> <p>Delete reference to the 'Primary Care Trust' in paragraph (2).</p> <p>Amend paragraph (3) to delete the sentences "A petition may be presented by one of the petitioners concerned or may be considered in their absence. It may also be presented by an elected member."</p> <p>Delete paragraph (7) and renumber remaining paragraphs accordingly.</p>	<p>The Primary Care Trust no longer exists and petitions relating to health services will still be covered under issues 'which otherwise affect the County'</p> <p>Now incorporated into paragraph (1).</p> <p>To reflect changes in legislation.</p>
<p>Note at end of Meeting Procedure Rules</p>	<p>Delete Secure Accommodation Review Panel and Member Reference Panel on Quality and Safeguarding in Registered Care.</p>	<p>To reflect the changes made to Part 3 Section E of the Constitution noted above.</p>

PART 4D – EXECUTIVE PROCEDURE RULES

<p>Rule 2: The delegation of Executive functions</p>	<p>Amend Rule 2(a) to read as follows:</p> <p>“Subject to Article 7.08, at the annual meeting of the County Council, the Leader will.....”</p> <p>Delete subparagraph (iv).</p>	<p>To cross refer to the County Council decision as reflected in Article 7.08 (No delegation to individual members of the Executive) which means the requirements of Rule 2 have no practical effect.</p> <p>Delegations to officers detailed in Part 3 of the Constitution are dealt with through the Constitution Committee and changes are captured as part of the annual review of the Constitution.</p>
<p>Rule 8: Working definition of “Key Decision”</p>	<p>Amend paragraph (vi) to remove the wording ‘additional’.</p>	<p>To bring in line with Regulations and consistency with the Articles.</p>

PART 4E – OVERVIEW AND SCRUTINY PROCEDURE RULES

<p>Rule 2: The Scrutiny Commission</p>	<p>Amend Rule 2 and create a new Rule 2A to read as follows:</p> <p>RULE 2 <i>The Scrutiny Commission</i></p> <p>The Scrutiny Commission will exercise the following responsibilities in relation to the overview and scrutiny of the discharge of County Council functions:</p> <ol style="list-style-type: none"> 1. to have the powers of an overview and scrutiny committee in relation to Executive decisions made but not implemented as set out in section 21(3) of the Local Government Act 2000, similar to other overview and scrutiny committees; 	<p>To reflect existing practice.</p>
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2. to act as the statutory appeal body where a petitioner has requested a review of the adequacy of the steps taken or which are proposed to be taken in the Authority's response to a petition;
3. to agree job descriptions for the Scrutiny Commissioners and for the Chairmen, Deputy Chairmen and Spokesmen of the overview and scrutiny committees.

RULE 2A
The Scrutiny Commissioners

The Scrutiny Commissioners will exercise the following responsibilities in relation to the overview and scrutiny of the discharge of County Council functions:

1. to approve an annual overview and scrutiny work programme, to ensure that there is efficient use of the committees' time, and that the potential for duplication of effort is minimised;
2. where matters fall within the remit of more than one overview and scrutiny committee, to determine which of them will assume responsibility for any particular issue, and to resolve any issues of dispute between overview and scrutiny committees;
3. to receive requests from the Executive and/or the full County Council for reports from overview and scrutiny committees and to allocate them if appropriate to one or more overview and scrutiny committees;

	<p>4. to put in place and maintain a system to ensure that referrals from Overview and Scrutiny to the Executive, either by way of report or for reconsideration, are managed efficiently;</p> <p>5. at the request of the Executive, to make decisions about the priority of referrals made if the volume of such referrals creates difficulty for management of Executive business or jeopardises the efficient running of County Council business.</p>	
<p><u>PART 10 – PETITIONS SCHEME FOR LEICESTERSHIRE COUNTY COUNCIL</u></p>	<p>Replace Part 10 with Appendix 2.</p>	<p>The Petitions Scheme is no longer a statutory requirement and has therefore been revised in the light of local requirements.</p>