

**PROPOSED AMENDMENTS TO THE CONSTITUTION
OF LEICESTERSHIRE COUNTY COUNCIL
NOVEMBER 2021**

<u>ITEM</u>	<u>PROPOSED AMENDMENT</u>	<u>EXPLANATION</u>
<u>PART 1 – Summary and Explanation</u>		
The Leader, Cabinet and Executive	Amend paragraph 8 to read “The Leader will appoint one of the other members of the Cabinet as a Deputy Leader who will act in the Leader’s place and preside at meetings of the Cabinet where the Leader is absent, in accordance with the law and the Meeting Procedure Rules.”	To reflect the position in law and the Council’s current practice.
<u>PART 2 - ARTICLES</u>		
Article 7.02 – The Executive (<i>Form and Composition</i>)	Insert additional paragraph as follows – “The Chairman and Vice Chairman of the Council cannot be appointed to the Cabinet or as Cabinet Support Members.”	To reflect current practice.
Article 7.04 – The Executive (<i>Designation of Deputy Leader and Lead Members</i>)	Amend the first paragraph to read – “The Leader of the Council will appoint one of the Executive Members to the position of Deputy Leader who, in addition to their role as Deputy Leader will also act as Vice Chairman of the Cabinet.”	To reflect the position in law and the Council’s current practice.

<p>Article 7A.02 – The Health and Wellbeing Board (<i>Composition</i>)</p>	<p>Amend sub paragraph (a) (vi) to read as follows –</p> <p>(vi) A representative of the CCGs and / or health equivalent in the new Integrated Care System.</p>	<p>To align with plans to introduce integrated care systems in line Government guidance.</p>
<p>Article 7A.03 – The Health and Wellbeing Board (<i>Role and Function</i>)</p>	<p>Amend to read as follows –</p> <p>The Health and Wellbeing Board shall have the following general role and function: -</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. The Board is responsible for: -</p> <ul style="list-style-type: none"> • Preparing and publishing the Leicestershire Joint Strategic Needs Assessment in order to identify the needs and priorities across Leicestershire so that future commissioning/policy decisions and priorities are based on evidence. • Preparing and publishing a Joint Health and Wellbeing Strategy and associated Plan on behalf of the County Council and its partners. • Approving the Better Care Fund Plan. • Publishing and refreshing the Pharmaceutical Needs Assessment to assess the need for pharmaceutical services in Leicestershire and 	<p>Generalised to future proof the role and function of the Board in preparation for the introduction of the new Joint Health and Wellbeing Strategy.</p>

	<p>providing an evidence base for future policy and commissioning decisions.</p> <ul style="list-style-type: none"> • In conjunction with all partners, communicating and engaging with local people on how they can achieve the best possible quality of life and be supported to exercise choice and control over their personal health and wellbeing. • Having oversight of the use of relevant public sector resources to identify opportunities for the further integration of health and social care services. <p><i>[Note: More detail relating to the operation of the Health and Wellbeing Board are set out on in the Board's full Terms of Reference which are published on the County Council website at http://www.healthandcareleicestershire.co.uk/health-and-wellbeing-board/.]</i></p>	
<p>Article 14 – Finance, contracts and legal matters</p>	<p>Amend Article 14.03 to read “Legal Proceedings.</p> <p>The Director of Law and Governance is authorised:</p> <p>(a) To institute, participate in, defend, settle, compromise, withdraw or discontinue any proceedings on behalf of the Council;</p> <p>(b) To advance, defend, compromise, abandon or otherwise dispose of claims (for monies or other remedies) in connection with any pending or</p>	<p>To broaden to ensure all potential legal proceedings necessary to be undertaken from time to time are sufficiently captured.</p>

	<p>actual legal proceedings in any cases where such action is necessary to give effect to decisions of any part of the Council or in any cases where the Director of Law and Governance considers that such action is necessary to protect the Council's interest;</p> <p>(c) To act as 'litigation friend' in connection with any legal proceedings brought by persons to who the Council owes a legal duty of care (e.g. children in care);</p> <p>(d) To instruct counsel, solicitors and other experts in relation to legal proceedings, public inquiries, and other matters involving the Council.</p> <p><i>[Note: The expression "proceedings" shall include, without limitation, criminal proceedings, civil claims, court cases, tribunals, enquiries, arbitrations and other alternative dispute resolution processes.]</i></p>	
Schedule 2 – Plans determined by the Executive	<p>Amend J. by –</p> <p>removing reference to the 'use of the Regulation of Investigatory Powers Act 2000'</p> <p>inserting 'Covert Surveillance and the Acquisition of Communications Data Policy Statement'</p>	To bring in line with current guidance.

PART 3 - RESPONSIBILITY FOR FUNCTIONS

<p>Section B – Responsibility for County Council Functions (<i>Corporate Governance Committee</i>)</p>	<p>Insert a new paragraph 3(l) to read “To approve the Council’s procedure for handling Member Conduct Complaints. (<i>See also the delegation to the Director of Law and Governance.</i>)”</p> <p>Insert a new paragraph 3(n) to read “To have oversight as part of the annual complaints report of the findings of the Local Government Ombudsman where there is a finding of maladministration against the Council.”</p> <p>Amend current paragraph 3(n) (<i>to be renumbered</i>) to read “To make <i>voluntary</i> payments or provide other benefits in cases of maladministration under section 92 of the Local Government Act 2000. (<i>See also delegation to the Director of Law and Governance.</i>)</p> <p>Amend current paragraph 3(o) by inserting the following at the end of the paragraph “(<i>see also the delegation to the Director of Law and Governance.</i>)”</p>	<p>To align with the Corporate Governance Committee’s responsibility for standards matters.</p> <p>As above.</p> <p>To clarify the power relates to ‘voluntary’ payments only.</p> <p>For ease of cross referencing.</p>
<p>Section B – Responsibility for Functions (<i>Constitution Committee</i>)</p>	<p>Amend paragraph 3(d) to read “Bills. <i>Advising the Council on the promotion or opposition of local or personal Bills which are specified in Schedule 1 to the Functions Regulations and which are relevant to a county council.</i>”</p> <p>Amend paragraph 3(e) to read “Making and revoking appointments, except where the full County Council, the Cabinet, the Corporate Governance Committee or</p>	<p>To align with the functions of the full County Council</p>

	other board or committee has such responsibility.”	
Section D – General scheme of delegation to Chief Officers <i>(General conditions of delegation)</i>	<p>Amend the Note in italics by removing paragraph (c).</p> <p>Add the following sub paragraphs to paragraph 5 –</p> <p>(g) follow any appropriate legislative, regulatory, consultation, equalities or procedural requirements that may be required;</p> <p>(h) have identified and managed appropriate strategic and operational risks within the officer’s area of responsibility;</p> <p>(i) be in accordance with the decision-making requirements set out in this Constitution including requirements for decision records and access to information.</p> <p>Add to the end of paragraph 6 the words “and in all cases by the Chief Executive”.</p> <p>Insert new paragraphs 7, 8, 9 and 10 as follows (and renumber current paragraphs 7 – 10 accordingly) –</p> <p>“7. Any proper officer function or delegation to the Chief Executive may in his/her absence be exercised by the Director of Corporate Resources and in both their absence, the Director of Law and Governance.</p> <p>8. Subject to any express instruction to the contrary from the delegating body, any power to approve also includes power to refuse, power to impose appropriate conditions and power to amend</p>	<p>Not required.</p> <p>To update the general conditions of delegation to ensure these are robust.</p> <p>To provide for continuity in the absence of a Chief Officer.</p> <p>To provide continuity in the absence of the Chief Executive.</p> <p>To provide greater clarity in respect of delegations to approve a matter.</p>

	<p>decisions.</p> <p>9. Where an officer is authorised or designated as a Proper Officer for the purposes of any legislation, that authorisation (unless it specifically states to the contrary) will be deemed to authorise that officer to undertake all the powers and duties of an authorised officer as are specified in that legislation. These may include (but are not restricted to) the power to enter on land, undertake inspections, service notices, take samples and remove goods.</p> <p>10. Where a power or duty is delegated to an officer, either directly or through designation as an authorised officer, and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the officer in question has the power to determine whether or not those circumstances exist or whether those conditions have been fulfilled in the name of and with the authority of the Council.”</p> <p>Amend current paragraph 10 to read “Delegations relate to all provisions for the time being in force under any applicable legislation. <i>Delegations under a specific legislative provision will include references to Regulations and other subordinate legislation made thereunder</i> and incorporate any amendment to or re-enactment of that provision.”</p> <p>Add the following new paragraphs at the end of the</p>	<p>To provide clarity with regard to proper officer authorisations.</p> <p>To provide greater clarity and assurance.</p> <p>To ensure delegations remain in line with legislation.</p>
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	<p>section ‘General conditions of delegation’ and number accordingly –</p> <p>Functions, matters, powers, authorisations, delegations, duties and responsibilities within this Scheme will be construed in a broad and inclusive fashion and will include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything so specified.</p> <p>Where a power or duty delegated under this Scheme includes a power to take enforcement action, and/or to recover costs, fees or charges, the delegation will include the power to take all necessary action to recover such fees costs or charges by way of civil debt or otherwise.”</p>	<p>To ensure delegations are sufficiently broad so as to enable officers to take such action as is necessary to implement a decision taken at a member body.</p> <p>To provide greater clarity on the extent of any such authorisation given to officers.</p>
<p>Section D – General scheme of delegation to Chief Officers (General delegations to the Chief Executive)</p>	<p>Amend existing paragraph 11 to read “Amendments to the Constitution: To amend this Constitution to reflect reorganisations, changes in job titles and vacancies (where such changes result in redistributing existing delegations), to reflect changes in law and good practice and to effect member decisions.”</p> <p>Amend the title of existing paragraph 12 to read ‘Urgent Action’ and add the following additional paragraph – “To authorise any action reasonably necessary to protect the health, safety or welfare of individuals or the safety of property.”</p> <p>Add the following new paragraphs and renumber</p>	<p>To ensure the Constitution can be updated as necessary when consequential changes are needed and to ensure it remains fit for purpose.</p> <p>To ensure action can be taken in times of emergency.</p> <p>To ensure action can be taken in times of</p>

	<p>accordingly –</p> <p>“Proper Officers: To appoint officers as Proper Officers for the purposes of any specific Council service, function or as required in law and to act as the Proper Officer where another officer has not been appointed, and to amend the Proper Officer Provisions set out in Part 9 of this Constitution accordingly.”</p> <p>“Other Officer Delegations: To exercise all delegated functions to officers in the absence of relevant officers.”</p> <p>“Emergency Planning: To discharge emergency planning and civil protection functions.”</p>	<p>emergency.</p>
<p>Section D – General scheme of delegation to Chief Officers <i>(General delegations to heads of departments)</i></p>	<p>Amend title to read ‘General delegations to Chief Officers’.</p> <p>Under the existing paragraph 13 titled ‘Appointment of employees’ add –</p> <p>“To implement changes to staffing structures subject to prior consultation with all appropriate parties as required in law and in line with the Council’s own policies and procedures.</p> <p>To enter into reciprocal arrangements for the authorisation and appointment of officers to facilitate cross-border co-operation in the discharge of delegated functions with any other authority.”</p>	<p>To extend the general scheme of delegation in respect of specific operational matters.</p>

Amend the existing paragraph 14 to read –
“Finance:

To manage the finance of their departments to ensure value for money and the development of budget policy options with a detailed assessment of financial implications in accordance with the County Council’s Medium Term Financial Strategy.

To enter into contracts. *(See also the Contract Procedure Rules)*

To incur revenue expenditure within the approved budget or approved external funding on non-employee related items, subject to the Chief Finance Officer having the discretion to lay down conditions, either generally or in any particular case, and subject to the approval of the Cabinet where the Chief Finance Officer considers this to be appropriate.”

Amend the title of paragraph 20 to read **‘Plant and equipment’** and add the following additional paragraph “power to manage vehicles, plant, equipment, apparatus, machinery, stock, stores, supplies, materials, furniture, appliances or other equipment or books, necessary for the provision of services.”

Amend existing paragraph 23 to read **“County Council plans policies and strategies:** To make such consequential amendments to any Council plan, policy or strategy agreed at elected member level

including plans and strategies within the Council's Policy Framework, following consultation with the Chief Executive, as is considered necessary to reflect changes in legislation and good practice to ensure the plan, policy or strategy remains fit for purpose and is compliant with legal requirements'."

Amend existing paragraph 24 to read "**Annual Review of Charges:** In accordance with relevant legislation and Standard Financial Instruction 15 to review and set all fees and charges for Council services and activities at least annually, and to determine detailed pricing for outside work.

Insert the following new paragraphs and re-number the section accordingly -

"**General operational:** To have overall responsibility for the operational management of the relevant area of service and for bringing forward such strategic plans and policies, and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to exercise the functions for which the service is responsible.

Implementation of decisions: To take all necessary actions (including the letting of contracts, undertaking statutory processes and incurring expenditure) to implement decisions of the full County Council, the Cabinet and any Regulatory committee/board.

"**Consultations:** To respond to Government consultations and consultations from other bodies

	<p>where appropriate, in consultation with the relevant Lead Member or committee/board Chair.</p> <p>To undertake all steps required to complete Government Statistical Returns.”</p> <p>“Supply of Goods and Services: To administer the supply of goods and services to other public authorities and bodies under the Local Authorities (Goods and Services Act) 1970 and all other enabling legislation.”</p>	
Section E – Panels	<p>Delete paragraphs 5 (d) and (e) regarding the Children in Care Panel and Child Protection Panel respectively.</p> <p>Amend paragraph 5(l) to read “Manufacture and Storage of Explosives Panel: to consider, through public hearings, representations about applications to the Health and Safety Executive under the Explosives Regulations 2014 (or such other regulations as may be in force) and to determine whether or not to give the Council’s assent to those applications.”</p>	<p>These Panels no longer exist.</p> <p>To refer to the up to date 2014 Regulations.</p>

<u>PART 4A – MEETING PROCEDURE RULES</u>		
Standing Order 35 – Petitions at the Commission, boards or committees	Amend Standing Order 35(7) to read “If the petition organiser feels unhappy with the way their petition was handled he/she can request that the Council review the steps taken in response to the petition. The petition organiser should contact Democratic Services and provide an explanation of the reasons why the way the petition has been dealt with is not considered to be adequate. The Council will consider the request and respond accordingly within 10 working days.”	To provide a centralised system for considering concerns regarding the handling of a petition and to reflect that petitions cannot only be submitted to a scrutiny body.
<u>PART 4E – OVERVIEW AND SCRUTINY PROCEDURE RULES</u>		
Rule 18 - Matters within the remit of more than one overview and scrutiny committee.	Delete.	Duplicates Rule 2A(2)
<u>PART 9 – RECORD OF SPECIFIC DELEGATIONS TO HEADS OF DEPARTMENTS AND OTHER AUTHORITIES</u>		
Part 9 - Title	Amend the title of Part 9 to read ‘Record of Specific Delegations to Heads of Departments and Proper Officer Provisions’.	To reflect that the Proper Officer provisions are included in this Part of the Constitution and that delegations to ‘other Authorities’ are set out in Part 3 of the Constitution, not Part 9.
<u>PART 10 – PETITIONS SCHEME FOR LEICESTERSHIRE COUNTY COUNCIL</u>		
	Replace the current Petitions Scheme with that now attached.	To reflect the change to Standing Order 35 and that petitions can be received by Regulatory boards and committees as well

		as scrutiny bodies where appropriate.
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