

CONSTITUTION COMMITTEE – 4 MARCH 2013**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

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 came into effect in June 2001 and has usually been reviewed on an annual basis. In 2012 the review was put forward in order to respond to regulations relating to the Localism Act. The current review is also taking place outside of the annual review process to respond to the recent publication of regulations affecting Access to Information, Health Scrutiny and the Health and Wellbeing Board.
5. This report sets out 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 Access to Information Procedure Rules – Appendix 2.

6. A further review of the Constitution will be required once the Local Audit Bill has been granted royal assent. It is expected that the Bill will include a provision to make audit committees, with a majority of independent members, a statutory requirement for local authorities.

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

7. A number of changes, particularly to the Access to Information Rules, have arisen from the Meetings and Access to Information Regulations. The new requirements can be summarised as follows:-
 - (a) The replacement of the previous “Forward Plan” arrangements with a requirement that a document must be published indicating that a decision maker intends to make a key decision. This must be done at least 28 clear days before the decision is made.
 - (b) A new requirement that proposals to hold a private meeting of the Executive (which includes that part of a public meeting taken in private) should be the subject of a public notice published at least 28 days before the meeting.
 - (c) Revised arrangements for making exceptions involving the agreement of the Chairman of the relevant Overview and Scrutiny Committee to include on the agenda an exempt item which has not been the subject of such a public notice.
 - (d) Urgent exempt items are no longer permissible.
 - (e) A requirement to publish the agenda and papers for Cabinet meetings on the website at least five clear days before a meeting. Previously there was no requirement to publish on the website so the County Council had more discretion about when this took place. The County Council is still required to issue paper copies at least five clear days before a meeting.
 - (f) A requirement to publish background papers on the website. Previously background papers had to be available for inspection only.
 - (g) A requirement to publish a written statement of officer decisions where they are in connection with the discharge of a function which is the responsibility of the Executive.

8. In the case of (g), further guidance is awaited from Government on this issue. However, it was thought appropriate to make reference to the requirement in the Constitution.

Health and Wellbeing Board

9. The Health and Social Care Act 2012 included a requirement for the County Council to establish a Health and Wellbeing Board as a Committee of the Council from 1 April 2013. Although in Leicestershire the Health and Wellbeing Board was established in Shadow form in April 2011, the changes proposed to the Constitution formally establish the Board on the basis required.

Health Scrutiny

10. The previous review of the Constitution included changes made in the light of the Health and Social Care Act 2012 which placed the power of referral of certain health issues to the Secretary of State, regulator or NHS Commissioning Board with the County Council rather than the Health Scrutiny Committee. A further amendment is now being proposed to clarify that any Joint Scrutiny Committee set up to scrutinise health issues which impact on a larger administrative area than the County Council would have to recommend any matters it considered should be the subject of a referral to the appointing authorities for action.
11. During the past two years, the Leicestershire, Leicester and Rutland Health Overview and Scrutiny Committee has only met to consider the future of the Glenfield Children's Heart Unit. It seems appropriate to continue this arrangement and for the Committee, in future, to only be established on an ad hoc basis to consider a specific issue. The proposed changes to the Constitution will allow this.

Recommendation

12. 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.

Circulation under Local Issues Alert Procedure

None.

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Equal Opportunities Implications

None.