

CONSTITUTION COMMITTEE – 11 MARCH 2004**REPORT OF THE CHIEF EXECUTIVE****ESTABLISHMENT OF OVERVIEW AND SCRUTINY COMMITTEES
RELATING TO THE HEALTH SERVICE****Purpose**

1. The purpose of this report is to put forward proposals for the establishment of Overview and Scrutiny Committees relating to the Health Service together with the necessary amendments to the County Council's Constitution to give effect to these proposals.

Background

2. The Health and Social Care Act 2001 extended the powers of Overview and Scrutiny Committees of Social Services Authorities to include the power "to review and scrutinise in accordance with regulations.....matters relating to the health service.....in the authority's area and to make reports and recommendations on such matters in accordance with the regulations". The Act required local authorities to ensure that constitutional arrangements were in place to enable the relevant committees to exercise that power. These provisions, along with the supporting regulations, came into effect on 1 January 2003. Guidance from the Department of Health underpinning the operation of the new committees was issued in May 2003. Directions requiring the appointment of joint overview and scrutiny committees in specified circumstances were issued on 17 July 2003.
3. There are ten health bodies serving the area of Leicestershire as follows:-
 - Leicestershire, Northamptonshire and Rutland Strategic Health Authority
 - University Hospitals of Leicester NHS Trust
 - Leicestershire Partnership NHS Trust
 - East Midlands Ambulance Services NHS Trust
 - Eastern Leicester PCT
 - Leicester City West PCT
 - Melton, Rutland and Harborough PCT
 - Hinckley and Bosworth PCT
 - Charnwood and North West Leicestershire PCT
 - South Leicestershire PCT

4. Many of these health bodies provide services across the area of more than one Social Services authority. The PCTs are responsible for delivery of primary care services to their areas. Two PCTs are located within the geographical area of Leicester City Council. The remaining four PCTs cover areas within Leicestershire which are not co-terminous with district council boundaries. Rutland forms part of the Harborough Melton and Rutland PCT. Each PCT has responsibility for taking a strategic lead on major aspects of service delivery across the area of the three Social Services authorities, the County Council, City Council and Rutland Council.
5. The Act and regulations allow Social Services authorities to appoint joint committees and a County Council to arrange for members of an overview and scrutiny committee of a district council to be co-opted members on a County Council overview and scrutiny committee operating under the 2001 Act. Those co-opted members may be voting members. The Guidance recommends that “scrutiny of services provided, commissioned or planned by a single NHS body covering more than one local authority area should be undertaken by a joint committee”. The directions require Social Services authorities to appoint a joint overview and scrutiny committee in circumstances where a local NHS body consults more than one overview and scrutiny committee on any proposal it has under consideration for a substantial development of the Health Service or a substantial variation of provision of such service.
6. The difficulties of creating a system of health scrutiny which would be acceptable and effective in an area including a shire county, two unitary authorities, seven district councils and ten health bodies, with little or no co-terminous boundaries, led the County and District Leaders to conclude, at a meeting on 12 September 2002, that further consideration of the issues should be deferred until the Guidance had been received. That Guidance was issued just before local elections in all those local authorities, with the exception of the County Council. Further discussions have now taken place with City Council, Rutland Council and District Councils and with representatives of the health bodies.

Proposals

7. It is proposed to set up a joint committee with membership drawn from the County Council, City Council and Rutland in the proportions 7:7:2 to scrutinise health bodies with strategic responsibilities and responsibilities across the areas of the three authorities (including such responsibilities lying with PCTs). It is proposed that there should be a separate set of arrangements to deal with scrutiny of locally-based PCT functions. To avoid the problem of multiple scrutiny of local health bodies, it is proposed that there should be four separate bodies, one for each PCT, each comprising 7 County Council members and 6 co-opted District members. Rutland Council will also have representation on the body dealing with Melton, Rutland and Harborough PCT on a co-opted basis. These 4 bodies will be constituted as subcommittees to a County Council Health Overview and Scrutiny Committee which will have responsibility for achieving a consistent approach by the subcommittees and determining the approach to be adopted in carrying out scrutiny of issues which affect all the PCTs.

8. The proposed structure is set out in Appendix A to this report. The Constitutional amendments required to bring these new arrangements into effect are set out at Appendix B to this report. Further amendments to the Constitution will need to be drafted to reflect the Committee's recommendations on the question of Chairmanships, a matter which is referred to later in this report.
9. These proposals will have the effect of allowing the County Council to set up a joint committee with the two other Social Services authorities. Those two authorities will also have to make changes to their constitutions. It will be necessary to determine the terms of reference, meeting procedure rules and a number of other key issues such as arrangements for chairing the joint committee by agreement with those two other authorities. It is suggested that the arrangements for the establishment of a joint committee be delegated to the Chief Executive in consultation with the Chairman and Spokesmen of this Committee. It will not be necessary for further amendments to be made to the Constitution. The proposed amendments to the County Council's Constitution do allow for the County Council's Health Scrutiny Committee to perform the role of the joint committee until such time as it is operational.

Consultation

10. As indicated above, consultation has taken place with the other authorities and health bodies. The response to the proposals from the City Council, Rutland Council, representatives of the health bodies and the District Councils has been generally positive. Melton Borough Council had put forward the view that there should be District Council representation on the Joint Committee and that it would not then be necessary to set up the Health Overview and Scrutiny Committee. That view, however, was not pursued at a recent meeting of the County and District Council Leaders.

Chairmanships

11. Provided that the proposed changes to the Constitution are acceptable, the only constitutional issue remaining is that of chairmanships.
12. In the case of the proposed joint committee with Leicester City and Rutland this will be a matter for agreement between the three authorities. In the case of the remaining bodies these will need to be covered within the County Council's Constitution.
13. Whatever arrangements it adopts, it is assumed that the County Council will wish to ensure that the chairmanship of Health Scrutiny Committees and subcommittees lie in the hands of a County Councillor i.e. that no district co-opted member should act as Chairman.
14. The arrangements within the Constitution for allocating the Chairmanships between scrutiny committees dealing with County Council functions operate on the basis of a 50/50 split between Opposition and Administration Groups with choice being exercised in the following order. The 2003/04 allocation is shown to illustrate how the mechanism works in practice.

| | | <u>2003/04 Choice</u> |
|----|--------------------------------------|------------------------------------|
| 1. | Opposition (smaller group) | Education |
| 2. | Administration | Social Services |
| 3. | Opposition (larger group) | Highways, Transportation and Waste |
| 4. | Administration | Resources |
| 5. | Opposition (larger group) and so on. | Community Services |

15. In relation to the scrutiny of County Council functions, the Council has decided to give the opposition groups 'first choice' in nominating chairmen of scrutiny bodies. However, the arguments for doing so do not apply in the same way to the scrutiny of external Health Service bodies. Members may, therefore, consider that a different arrangement should apply to the allocation of chairmanships to these bodies.

The d'Hondt procedure

16. One option would be to apply the d'Hondt procedure' which is used widely in Europe and has operated in relation to Northern Ireland bodies, as a means of allocating places proportionally between parties, using an arithmetical 'largest average' formula.
17. The procedure decides an order in which nominations are made, derived from applying divisors of 1, 2 and 3 to the number of seats held by each party and ranking the results in descending order.
18. In the case of the present composition of the Council the formula would operate as follows:-

| Divisor | Conservative | Labour | Liberal Democrat |
|----------------|---------------------|---------------|-------------------------|
| 1 | 28 | 15 | 10 |
| 2 | 14 | 7.5 | 5 |
| 3 | 9 | 5 | 3 |

The d'Hondt order would therefore be:

| <u>Order</u> | | <u>Score</u> |
|---------------------|------------------|---------------------|
| 1 | Conservative | 28 |
| 2 | Labour | 15 |
| 3 | Conservative | 14 |
| 4 | Liberal Democrat | 10 |
| 5 | Conservative | 9 and so on |

Resources Implications

19. A growth bid of £30,000 for 2004/05 and subsequent years has been agreed to support existing resources.

Equal Opportunities Implications

20. None.

Recommendations

21. The Committee is asked to recommend the County Council
- (a) to approve the proposals set out in this report for the establishment of overview and scrutiny committees relating to the Health Service;
 - (b) to approve the proposed changes to the Council's Constitution set out in Appendix B to this report, which give effect to these proposals;
 - (c) to make such further changes as the Committee may determine in relation to chairmanship of scrutiny bodies dealing with the Health Service;
 - (d) to authorise the Chief Executive, in consultation with the Chairman and Spokesmen of this Committee to take such action as may be necessary in relation to the establishment of a joint committee with Leicester City Council and Rutland Council to review and scrutinise the activities of local health bodies with responsibility for health service functions across the area of the three authorities.

Background Papers

None.

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