

# APPENDIX B

## PROPOSED AMENDMENTS TO THE CONSTITUTION TO GIVE EFFECT TO HEALTH SCRUTINY ARRANGEMENTS

### PART 1 – SUMMARY AND EXPLANATION

Amend Section on Overview and Scrutiny (paragraphs 16-19) to read as follows:

#### **“Overview and Scrutiny**

##### **(a) County Council Functions**

16. A number of Overview and Scrutiny bodies have been established in relation to the activities of the County Council, in accordance with the provisions of the Local Government Act 2000. The operation of these bodies is described in paragraphs 17 to 20 below.
17. There are several *standing* (i.e. permanent) overview and scrutiny committees - the Scrutiny Commission and a number of other overview and scrutiny committees. These overview and scrutiny committees support the work of the Executive and the County Council as a whole. These committees allow citizens to have a greater say in County Council matters, because at their meetings citizens may ask questions and present petitions, provided that they have followed the correct procedures. The committees produce reports and recommendations which advise the Executive and the County Council as a whole on its policies, budget and service delivery. Overview and scrutiny committees also monitor the decisions of the Executive.
18. They can ‘call-in’ a decision which has been made by the Executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Executive reconsider the decision, although the final decision will still remain with the Executive. They may also be consulted by the Executive or the County Council on forthcoming decisions and the development of policy.
19. In addition to the standing overview and scrutiny committees, there is also a Scrutiny Reference Group of senior members involved in overview and scrutiny. The Reference Group will not constitute a formal committee but will meet informally to facilitate the work of overview and scrutiny.
20. At any one time, there is also a number of small, five member, *ad hoc* (i.e. temporary) review panels which carry out specifically targeted reviews connected with Best Value, the roll-forward of the Policy Framework and other issues identified as requiring special attention. These review panels will be wound up once they have completed their work; other new review panels, with new remits, will

take their place. All of this review activity will, if possible, be carried out following an Annual Review Programme agreed jointly by the Scrutiny Commission and the Executive and approved by the full County Council. The purpose of these panels is not to exercise any formal powers associated with overview and scrutiny (which are the preserve of the overview and scrutiny committees) but to contribute to and inform the overview and scrutiny process. The panels will, therefore, not constitute formal committees but will meet in private; however, their final reports will usually become public when they are presented to the Executive and/or relevant overview and scrutiny committees.

**(b) Health Service Functions**

21. The Health and Social Care Act 2001 requires Social Services authorities such as Leicestershire County Council to establish arrangements to review and scrutinise matters relating to the Health Service in the authority's area and to make reports and recommendations.
22. The County Council has agreed to establish a joint committee with the Leicester City Council and Rutland Council, as Social Services Authorities, to scrutinise health bodies with responsibility for health service functions across the area of the three authorities. These include amongst others the University Hospitals of Leicester NHS Trust and such activities which a single Primary Care Trust (PCT) may undertake on behalf of all PCTs in the area.
23. The County Council has also established an Overview and Scrutiny Committee with four subcommittees with the function of scrutinising the activities of the four PCTs which serve areas of the County. These are (i) Charnwood and North West Leicestershire (ii) Hinckley and Bosworth (iii) Melton, Rutland and Harborough and (iv) South Leicestershire. The appropriate District Councils nominate councillors to serve on these overview and scrutiny subcommittees, alongside County Councillors. However, it should be noted that the PCT boundaries do not match District Council boundaries”.

**PART 2 – ARTICLES OF THE CONSTITUTION**

Amend Article 6 to read as follows:-

**6.01 Terms of Reference**

The County Council will appoint the overview and scrutiny committees and subcommittees set out in Table A in Schedule 3 to discharge the functions conferred by Section 21 of the Local Government Act 2000. These break down into those bodies responsible for scrutinising the discharge of County Council functions set out in Part I of Table A and

those bodies responsible for scrutinising the discharge of health services in the area set out in Part II of Table A.

## **6.02 Proceedings of overview and scrutiny committees**

Overview and scrutiny committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4E of this Constitution.

### **(a) County Council functions**

## **6.03 General role**

Within their terms of reference, overview and scrutiny committees will:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the County Council's functions;
- (b) make reports and/or recommendations to the full County Council and/or the Executive and/or any joint or area committee in connection with the discharge of any functions;
- (c) consider any matter affecting the County or its inhabitants; and
- (d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive and/or any policy or area committees.

## **6.04 Specific functions**

- (a) **Policy development and review.** Overview and scrutiny committees may:
  1. assist the County Council and the Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
  2. conduct research, community and other consultation in the analysis of policy issues and possible options;
  3. consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  4. question members of the Executive and/or boards, committees and chief officers about their views on issues and proposals affecting the County; and
  5. liaise with other external organisations operating in the County, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working

- (b) **Scrutiny.** Overview and scrutiny committees may:
1. review and scrutinise the decisions made by and performance of the Executive and/or boards, committees and chief officers both in relation to individual decisions and over time;
  2. review and scrutinise the performance of the County Council in relation to its policy objectives, performance targets and/or particular service areas;
  3. question members of the Executive and/or boards, committees and senior officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
  4. make recommendations to the Executive and/or appropriate committee and/or County Council arising from the outcome of the scrutiny process;
  5. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
  6. question and gather evidence from any person (with their consent).
- (c) **Finance.** Overview and scrutiny committees may exercise overall responsibility for the finances made available to them.
- (d) **Annual report.** Overview and scrutiny committees (or the Scrutiny Commission in a single report on their behalf) will report annually to full County Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.
- (e) **Officers.** Overview and scrutiny committees may exercise overall responsibility for the work programme of the officers employed to support their work.

### 6.05 Chairman of Scrutiny Commission

The Chairman of the Scrutiny Commission will be the Leader of the largest opposition group.

### 6.06 Call-in Procedure

The Call-in procedure described in the Overview and Scrutiny Procedure Rules in Part 4E of this Constitution requires that at least one person who is either the Chairman or a Spokesman of the Scrutiny Commission should concur with it being invoked.

### 6.07 Scrutiny Reference Group

In addition to the Scrutiny Commission and the other standing overview and scrutiny committees there will be a Scrutiny Reference Group with a membership determined by mutual agreement between the political groups. The Scrutiny Reference Group will not constitute an overview and scrutiny committee but will meet informally and in private. The role of the Scrutiny Reference Group will be to consider matters relating to the overall management and operation of overview and scrutiny and the work programme of the Scrutiny Commission.

**(b) Health Service functions**

**6.08 General Role**

Health overview and scrutiny committees will act as a lever to improve the health of local people, ensuring that the needs of local people are considered as an integral part of the delivery and development of health services. A committee may review and scrutinise any matter relating to the planning, provision and operation of health services in the area of the County Council, including:-

- (a) arrangements made by local NHS bodies to secure hospital and community health services for the inhabitants of the area and the services that are provided;
- (b) arrangements made by local NHS bodies for public health, health promotion and health improvement (including addressing health inequalities) in the area;
- (c) the planning of health services by local NHS bodies including plans made in co-operation with local authorities setting out a strategy for improving both the health of the local population and the provision of health care to that population;
- (d) arrangements made by local NHS bodies for consulting and involving patients and the public under the duty placed on them by section 11 of the Health and Social Care Act 2001;
- (e) any matter referred to the committee by a patients' forum;
- (f) responding to consultation from a local NHS body on a particular issue including proposals for a substantial development of the health service or a substantial variation in the provision of such service (in the latter circumstance it may be necessary for the response to be made through a joint overview and scrutiny committee).

**6.09 Process**

In carrying out the review and scrutiny of a particular matter, a health overview and scrutiny committee:-

- (a) shall have regard to any guidance issued by the Secretary of State with regard to these functions;
- (b) shall invite interested parties to comment on the matter;
- (c) shall take account of relevant information available to it and in particular relevant information provided by a patients' forum or district-based health forum;
- (d) may seek further information from a local NHS body;
- (e) may require the attendance of an officer of a local NHS body to answer such questions as appear to the committee to be necessary for discharging its functions, subject to providing reasonable notice to that officer;
- (f) may require the attendance of an executive member or officer of the County Council;
- (g) may question and gather evidence from any other person with their consent;
- (h) may conduct research and community and other consultation
- (i) would normally be expected to produce an annual overview and scrutiny plan
- (j) may make reports and recommendations to local NHS bodies, the County Council, Rutland Council, District Councils and in appropriate circumstances to the Secretary of State.

#### **6.10 Joint Committee**

The County Council will set up a joint committee with the Leicester City Council and Rutland Council to review and scrutinise the activities of local health bodies with responsibilities for health service functions across the area of the three authorities. Where the Joint Committee is unable to exercise these powers they shall be exercised by the Health Overview and Scrutiny Committee.

**Schedule 3 –****Tables**

Amend introductory note to read as follows:-

*“[Note: Neither the Scrutiny Commission nor any of the other overview and scrutiny committees or subcommittees are empowered to take decisions or exercise any responsibilities of the Executive or County Council or Health Service bodies. The general role and specific functions are described in Article 6 and for the purposes of that Article the Scrutiny Commission is regarded as an overview and scrutiny committee for those matters which come within its scope.]”*

Add following title immediately thereafter:-

**“PART I – COUNTY COUNCIL FUNCTIONS”**

Substitute “Social Care” for “Health and Social Care” in list of Committees.

Add the following after “Resources”:-

**“PART II – HEALTH SERVICE FUNCTIONS”**

<b>Committee</b>	<b>Scope</b>
Health	<ol style="list-style-type: none"> <li>1. The exercise by health bodies of functions on a county-wide or strategic basis which affect the area of the County Council.</li> <li>2. Any issues which come within the scope of more than one overview and scrutiny subcommittee.</li> <li>3. Oversight and co-ordination of the work of the overview and scrutiny subcommittees.</li> <li>4. Allocating specific issues on an ad hoc basis to any of the overview and scrutiny subcommittees.</li> <li>5. Resolving any disagreements between overview and scrutiny subcommittees.</li> <li>6. Arrangements for responding to consultation by local health bodies for substantial development of the health service or substantial variation in the provision of such service, save where these are dealt with through a joint committee with other Social Services authorities.</li> </ol>

Subcommittee	Scope
Charnwood and North West Leicestershire	The exercise of functions by the Charnwood and North West Leicestershire Primary Care Trust in respect of the geographical area of the Trust.
Hinckley and Bosworth	The exercise of functions by the Hinckley and Bosworth Primary Care Trust in respect of the geographical area of the Trust.
Melton, Harborough and Rutland	The exercise of functions by the Melton, Harborough and Rutland Primary Care Trust in respect of the geographical area of the Trust.
South Leicestershire	The exercise of functions by the South Leicestershire Primary Care Trust in respect of the geographical area of the Trust.

*[Note: Article 6.10 makes provision for the County Council to establish a joint committee with Leicester City Council and Rutland Council, as Social Services authorities, to scrutinise health bodies with responsibility for functions across the area of the three authorities].”*

#### **PART 4E – OVERVIEW AND SCRUTINY PROCEDURE RULES**

Rule 1 – Amend to read as follows:-

“The Council will have the overview and scrutiny committees and subcommittees set out in Article 6 and will appoint them as it considers appropriate from time to time. In the case of bodies dealing with County Council functions such committees may appoint subcommittees subject to the approval of the Scrutiny Commission. Such references in these rules to an overview and scrutiny committee shall be deemed to include references to subcommittees.”

Rule 2 – Amend introduction to read as follows:-

“The Scrutiny Commission will exercise the following responsibilities in relation to the overview and scrutiny of the discharge of County Council functions.”

Rule 3 – Amend to read as follows:-

“All County Councillors except members of the Executive and Cabinet Support Members may be members of an overview and scrutiny committee which deals with County Council functions. In the case of overview and scrutiny committees dealing with health service functions, no member of any local government Executive or in the case of an authority operating ‘Alternative Arrangements’ a member of the Policy and Resources Committee, may be a member. No member may be involved in scrutinising a decision with which he/she has been directly involved.”



Rule 4 – Amend to read as follows:-

“Each overview and scrutiny committee shall be entitled to recommend to the County Council the appointment of a number of people as co-opted members as set out in the Table below. In the case of voting co-opted members this will be subject to the approval of the necessary scheme under Section 115 of the Local Government Act 2003.

*[Note: the County Council has determined that it is unnecessary to co-opt people who are not County Councillors to be members of an overview and scrutiny committee, save to the extent required by law as described in Rule 5 and in relation to health scrutiny bodies as described in Rule 5A. However an overview and scrutiny committee may, if it wishes, invite individuals to attend to contribute to the discussion of a specific matter at a specific meeting. Such invitations should be regarded as exceptional and should not become a matter of routine.]*

Table remains unamended.

Add Rule 5A as follows:

**“RULE 5A”**

***Co-opted members of overview and scrutiny committees and subcommittees relating to Health Service functions.***

“Each relevant overview and scrutiny committee or subcommittee dealing with Health Service functions shall include in its membership co-opted members with voting rights nominated by the local authorities indicated in the Table below:

<b>Committee/Subcommittee</b>	<b>Permitted Co-options</b>	
	<b>Name of Authority</b>	<b>Number of Members</b>
Health	The Rutland Council	1
Charnwood and North West Leicestershire	Charnwood Borough Council	3
	North West Leicestershire District Council	3
Hinckley and Bosworth	Blaby District Council	2
	Harborough District Council	1
	Hinckley and Bosworth Borough Council	3

Committee/Subcommittee	Permitted Co-options	
Melton, Harborough and Rutland	The Rutland Council	1
	Charnwood Borough Council	1
	Harborough District Council	2
	Melton Borough Council	3
South Leicestershire	Blaby District Council	2
	Harborough District Council	1
	Oadby and Wigston Borough Council	3

*[Note: Rule 5A shall constitute the relevant scheme for the purposes of Section 115 of the Local Government Act, 2003].”*

Rule 7 – Amend to read as follows:

“The overview and scrutiny committees dealing with County Council functions shall obtain the prior approval of the Scrutiny Commission for their work programme and in formulating their work programme they shall take into account wishes of members on that committee who are not members of the current political administration of the County Council.”

Rule 8 – Add following words at beginning of paragraph (d):

“In respect of the examination of County Council functions.”

Rule 9 – Amend heading to read:

“Reports from overview and scrutiny committees dealing with County Council functions on proposals for development.”

Rule 12

Amend introduction to read:

“An overview and scrutiny committee may require any member of the Executive, the Head of Paid Service, and any senior officer of the Council, and in the case of an overview and scrutiny committee dealing with Health Services an officer of a local NHS body, to attend before it to explain in relation to matters within their remit.”

Amend paragraph (a) (ii) to read as follows:

“(ii) the extent to which the actions taken implement the policy of the County Council or relevant health body; and/or”

Rule 17 - Amend paragraph (a) (iv) to read as follows:-

“(iv) responses of the Executive or the relevant health body to reports of the overview and scrutiny committee; and”

Amend Rule 17(c) to read as follows:

“(c) Following any investigation or review, the Committee shall prepare a report, for submission to the Executive, County Council, the relevant health body and/or Secretary of State for Health as appropriate and shall make its report and findings public.”

Rule 18 – Amend to read as follows.

“Where a matter for consideration by an overview and scrutiny committee also falls within the remit of one or more other overview and scrutiny committees, the decision as to which overview and scrutiny committee will consider it will be resolved by (a) the Scrutiny Commission or where the matter requires urgent consideration, by the Scrutiny Reference Group in relation to County Council functions and (b) the Health Scrutiny Committee in relation to Health Service functions.”

#### **Schedule to Part 4E – Process for nominations for Chairmanship**

The schedule and Rule 6 to be amended as necessary to reflect the views of the Constitution Committee.