

Changes to Health Scrutiny and reconfiguration arrangements – Review of the Constitution and Proposed Changes.

Report of the Director of Legal and Democratic Services

Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

1) Recommendation

That Council be recommended to amend sections:

Part 2: Article 7

Part 3b, and

Part 4d,

of the Constitution, as set out within section 4, with new text shown in red and a strikethrough, for removed words.

2) Background / Introduction

2.1 As a result of the Health and Care Act 2022, the Department for Health and Social Care has introduced new regulations in respect of Health Scrutiny's role in the reconfiguration of local health services. These rules take effect from 31st January 2024.

2.2 From 31st January 2024, the Health and Adult Care Scrutiny Committee will no longer be able to formally refer matters that relate to reconfigurations to the Secretary of State, instead the Secretary of State will have broad powers to intervene through the power of call in.

2.3 The Council's constitution currently reflects the Health and Adult Scrutiny power of referral and must be amended to reflect the above changes.

2.4 Guidance, and as appropriate, training, will be delivered to Members as the new rules are operationalised.

3) Consultations / Representations / Technical Data

Not applicable.

4) Main Body / Proposal

4.1 It is proposed the following section, Part 2, Article 7 (7.1) Health & Adult Care Scrutiny Committee (page 16), be amended as follows, with amendments shown in red:

- a. To make reports and recommendations as appropriate to the County Council **and may request to the Secretary of State that a proposal be called in**, ~~and to the Secretary of State for Health~~, in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) **(Amendment and Saving Provision) Regulations 2013 2024**.

4.2 It is proposed the following section, Part 3b, 9.4(4) Health & Adult Care Scrutiny Committee (page 45), be amended as follows, with amendments shown in red:

- a. To make reports and recommendations as appropriate to the County Council **and may request to the Secretary of State that a proposal be called in**, ~~and to the Secretary of State for Health~~, in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) **(Amendment and Saving Provision) Regulations 2013 2024**.

4.3 It is proposed the following section Part 4d Scrutiny Procedures Rules, (10.4) (page 133), be amended as follows, with amendments shown in red:

- a. Scrutiny Committee undertaking the Council's functions in relation to the scrutiny of the health service and, in particular, where being formally consulted by the NHS or Health Providers will ensure that all relevant partners in the locality affected, including local authority partners, will have the opportunity to contribute and that those views will be taken into account in making its recommendations to the NHS **and/or** Health Provider, **or requesting that the Secretary of State call in a decision**.

4.4 It is proposed the following section Part 4d Scrutiny Procedures Rules, (Terms of Reference of Scrutiny Committees, Health & Adult Social Care Scrutiny Committee page 142) be amended as follows, with amendments shown in red.

- a. To make reports and recommendations as appropriate to the County Council **and may request to the Secretary of State that a proposal be called in**, ~~and to the Secretary of State for Health~~, in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) **(Amendment and Saving Provision) Regulations 2013 2024**.

4.5 It is proposed the following section Part 4d 'A Protocol for relationships and communications between the health & wellbeing scrutiny committee and Healthwatch Devon', (pages 147-152), be amended so that the twenty three references to 'Health & Wellbeing Scrutiny Committee' are replaced with **'Health and Adult Care Scrutiny Committee'**.

4.6 It is proposed the following section Part 4d Scrutiny Procedures Rules, (A Protocol for relationships and communications between the Health and Wellbeing Scrutiny Committee and Healthwatch Devon, pp. 148) be amended as follows, with amendments shown in red.

- a. NHS Bodies and commissioners, including Clinical Commissioning Groups (CCGs) **Integrated Care Boards** are also required to consult the Health & **Adult Care** Wellbeing Scrutiny Committee on substantial developments or variations to local health services as an official consultee. If the Scrutiny Committee has significant concerns with any proposals, **it may make a request to the Secretary of State that a proposal be called in.** ~~it has the power to make a referral to the Secretary of State for Health (or MONITOR) (jointly with other local authorities, if appropriate). All commissioners and providers of publicly funded healthcare and social care are covered by these powers, along with health and social care policies arising from the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy.~~

The formal terms of reference of the Health & **Adult Care** Wellbeing Scrutiny Committee are:

‘To review the implementation of existing policies and to consider the scope for new policies for all aspects of the discharge of the Council’s functions relating to the health and wellbeing of the people of Devon including the activities of the Health & Wellbeing Board, ~~when established,~~ and the development of commissioning strategies, strategic needs assessments and, generally, to discharge its functions in the scrutiny of any matter relating to the planning, provision and operation of the health service in Devon’, including making **a request to the Secretary of State that a proposal be called in.** ~~reports direct to the Secretary of State for Health,~~ in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations **(Amendment and Saving Provision) 2024** ~~2013~~’.

5) Strategic Plan

This proposal aligns to the Council’s Strategic Plan 2021 – 2025. The proposal supports the commitment of ensuring that the Council makes good decisions and is transparent and supports being a trusted and inclusive Council that hears the voices of communities and listens and learns.

6) Financial Considerations

There are no financial considerations.

7) Legal Considerations

Under Section 37 of the Localism Act 2011, the Council must prepare and keep up to date a Constitution. The proposed arrangements would not compromise this requirement.

8) Environmental Impact Considerations (Including Climate Change, Sustainability and Socio-economic)

There are no environmental related issues.

9) Equality Considerations

There are no equality related issues.

10) Risk Management Considerations

No risks have been identified.

11) Summary / Conclusions / Reasons for Recommendations

Under Section 37 of the Localism Act 2011, the Council must prepare and keep up to date a Constitution. The proposed arrangements would not compromise this requirement.

Name

Director of Legal and Democratic Services – Maria Price

Cabinet Member for Policy, Corporate and Asset Management: Councillor John Hart

Electoral Divisions: All

Local Government Act 1972: List of background papers

NIL

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