

**HARBOROUGH DISTRICT COUNCIL**

**REPORT TO THE CONSTITUTIONAL REVIEW COMMITTEE MEETING ON  
29 JUNE 2021**

**PUBLIC REPORT: Y**

**EXEMPT REPORT: N**

<b>Report Title</b>	Proposed amendments to the Constitution
<b>KEY DECISION</b>	Not applicable
<b>Report Author</b>	Verina Wenham, Chief Officer Governance and Monitoring Officer
<b>Purpose of Report</b>	
<b>Reason for Decision</b>	The Council has to ensure that it has in place a robust Constitution and that it should be reviewed regularly to ensure that all decisions are taken effectively and efficiently within the principles of open and accountable local government.
<b>Portfolio (holder)</b>	Councillor Dann - Corporate and Regulatory Services
<b>Corporate Priorities</b>	
<b>Financial Implications</b>	None as far as this report is concerned
<b>Risk Management Implications</b>	None as far as this report is concerned
<b>Environmental Implications</b>	None as far as this report is concerned
<b>Legal Implications</b>	The Council need to ensure that its constitution is kept up to date and fit for purpose
<b>Equality Implications</b>	None as far as this report is concerned
<b>Data Protection Implications</b>	None as far as this report is concerned
<b>Consultation</b>	
<b>Options</b>	As set out in the body of this report.
<b>Appendices</b>	Appendix A– Contract Procedure Rules Appendix B – Principles of Delegation
<b>Background Papers</b>	
<b>Recommendation</b>	That the following amendments are referred to Council for consideration and approval: 1. The Financial Procedure Rules are amended to include the Reserve Strategy as detailed in paragraph 1.2 and amendments to Paragraph O as set out in paragraph 1.3 this report; 2. That the Contract Procedure Rules are amended as set out in Appendix A of this report; 3. That the Principles of Delegation in Part 3 of the Constitution are amended as set out in Appendix B of this report; and

	4. That paragraph 3.2 of Section B of Part 3 of the Constitution is amended as set out in paragraph 1.6 of the report.
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## 1. Key Facts

- 1.1 The Council carries out regular review of its Constitution to ensure that it remains up to date and that all decisions are taken effectively and efficiently. Following the most recent overview of the Constitution, the following amendments are proposed for consideration by the Constitutional review Committee.
- 1.2 At its meeting on 30 November 2020, Cabinet approved a Reserve Strategy to provide a framework through which the Council would manage and govern its use of Reserves. Accordingly, it is proposed that the Financial Procedure Rules are amended to include the following:
- **General Fund (Unallocated) Reserve (GFUR):** Proposals for the application of forecast service under or overspends against the GFUR will be reported to Cabinet on a quarterly basis. Cabinet will confirm if they accept the reported forecasts and if there is a need for a specific contribution to/from the GFUR, this will be actioned via a Budget Surplus Reserve. In this way, the GFUR will be consistently maintained at the agreed MLR of 20% and contribution's to/from Earmarked Reserves will be transparently seen.
  - **Earmarked Reserves:** Earmarked Reserves will be established or deleted in line with the principles for reserves (Risk, Prudential Financial Management, Medium-Term Financial Planning and Funding Source of Last Resort). However, there will be predetermined controls around their operation as follows:
    - The Chief Finance Officer will be able to create reserves, following consultation with the Portfolio Holder for Resources.
    - Earmarked Reserves will only be able to be removed with the agreement of Cabinet.
    - Contributions to/from Earmarked Reserves will:
      - either be in line with statutory requirements or service need, and
      - only be made when agreed with the Chief Finance Officer.

- **Capital Receipts Reserve:**

The Council will receive capital receipts through the sale of capital assets that support general service activity these receipts will only be applied for similar such activity.

The first call for the application of such receipts will be to finance in-year capital expenditure, this will have the effect of minimising the Councils statutory obligations in respect of Minimum Revenue Provision.

- **Capital Grants Unapplied Reserve**

This reserve will only hold capital grants that will have been acquired by the Council for a specific purpose. The use of these grants will be in line with regulations.

1.3 In addition to this Paragraph O, setting out delegated authority for disposal and acquisition of land and property, will need to be amended to reflect the that the Chief Finance Officer has been appointed as the Corporate Property Officer in the place of the previous Joint Chief Executive. The Monitoring Officer will also use her delegation to make amendments to the postholder titles in this section.

1.4 At the last meeting of the Constitutional Review Committee in March 2020 it was agreed that a report on proposed changes to the Contract Procedure Rules would be considered at the next meeting of this committee. The proposed changes are set out in Appendix B to this report. The proposed amendments again reflect the changes to the senior management team. The proposed amendments also set out in more detail the general obligations around procurement, with the details set out in the Councils Statement of Required Practice (“SORP”) which this committee considered at its meeting in March 2020.

1.5 The changes to the senior management team are also reflected in the proposed changes to the Principles of Delegation set out in Appendix C.

1.6 Following discussions with Members, it is suggested that the part of the Constitution relating to the ability to “Call In” a Planning Application to Planning Committee is amended to order to improve the clarity of the provisions. The current wording of Part 3, Section B Para 3.2 of the Council’s Constitution states:

*3.2 Circumstances by which delegation to Officers is removed:*

*(a) Any application (other than Advertisement Consents; Prior Notifications and Prior Approvals; Hedgerow Removal Notices; Tree works applications; High Hedge applications; County Matters applications and Screening and Scoping*

*requests) where any Member has requested determination of the application by the Planning Committee, within 28 days of the date of the publication of the weekly list on which that application appears. N.B. The request for consideration may be withdrawn at any time, and the application returned to delegated authority (subject to compliance with the other criteria explained below). Requests should be made to the Development Planning Manager in writing (which includes email) and set out the planning reasons for the request.*

The element with which there has been cause for concern is the last sentence which it is felt is not clear enough, and the following amendment to Paragraph 3.2 (with new text in **bold**) is proposed:

*3.2 Circumstances by which delegation to Officers is removed:*

*(a) Any application (other than Advertisement Consents; Prior Notifications and Prior Approvals; Hedgerow Removal Notices; Tree works applications; High Hedge applications; County Matters applications and Screening and Scoping requests) where any Member has requested determination of the application by the Planning Committee, within 28 days of the date of the publication of the weekly list on which that application appears. N.B. The request for consideration may be withdrawn at any time, and the application returned to delegated authority (subject to compliance with the other criteria explained below). Requests should be made to the Development Planning Manager in writing (which includes email) and set out the planning reasons **(such as Highway safety, or the character of the surrounding area) for the request and should clearly state the impact of the development. The Development Planning Manager will subsequently consider the request and inform the Member of the decision.***