



# Constitutional Review Committee

**To All Members of the Constitutional Review Committee on Wednesday, 25 September 2024**

**Date of meeting: Thursday, 03 October 2024**

**Time: 18:30**

**Venue: The Council Chamber  
The Symington Building, Adam and Eve Street, LE16 7AG**

Members of the public can access a live broadcast of the meeting from the [Council website](#), and the meeting webpage. The meeting will also be open to the public.

## Agenda

- 1 Election of Chairman 2024/25**
- 2 Election of Vice-Chairman 2024/25**
- 3 Apologies for Absence**
- 4 Declarations of Members' Interests**
- 5 Minutes of Constitutional Review Committee 29.04.2024** **3 - 6**
- 6 Constitutional Update** **7 - 10**
- 7 Voting Procedure at Planning Committee** **11 - 16**
- 8 Any Urgent Business**  
To be decided by the Chairman.

JOHN RICHARDSON  
CHIEF EXECUTIVE AND HEAD OF PAID SERVICE  
HARBOROUGH DISTRICT COUNCIL

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Circulate to: Jo Asher - Member, Amanda Burrell - Member, Clive Grafton-Reed - Member, Barbara Johnson - Member, Phil King - Member, Phil Knowles - Member, Michael Rickman - Member

HARBOROUGH DISTRICT COUNCIL

Minutes of the Meeting of the Constitutional Review Committee

Held at Harborough Innovation Centre

Wellington Way, Airfield Business Park, Market Harborough

On Monday, 29 April 2024

Commencing at 18:30

Present:

**Chairman:** Councillor Simon Galton

**Councillors:** Councillor Jo Asher, Councillor Clive Grafton-Reed, Councillor Barbara Johnson, Councillor Phil King and Councillor Michael Rickman.

**Officers:** Liz Elliot (Deputy Chief Executive), Sarah Hamilton (Senior Democratic Officer & Monitoring Officer)

1. Apologies for Absence

Councillor Buddy Anderson offered his apologies.

2. Declarations of Members' Interests

There were no declarations of interest.

3. DRAFT Constitutional Review Committee Minutes 5 October 2023

The meeting minutes of the meeting on 5 October 2023 were accepted as a true and accurate record and signed by the Chairman.

4. Update on the Review of the Constitution

The Deputy Chief Executive confirmed that the up-to-date revised version of the Constitution would be printed on 10<sup>th</sup> May 2024 to be taken to the next meeting of Annual Council on 20<sup>th</sup> May for approval. She gave a summary of the most recent changes to the constitution including formatting and a legislative update referencing the equalities act and changes to the Scrutiny Commission. She also confirmed that there had been no changes to the Delegations, but that this would be brought back for review in the new municipal year along with changes on procurement once the procurement rules have been clarified.

The Committee raised various points for clarification on the draft constitution provided:

Councillor Jo Asher:

- Page 50- 2.5.3- “may appoint a deputy chairman”- needs to be clear- change “may” to “shall.” Any plans to include content in the constitution on Social Media?
- LE- No plan currently as the Council has a Social Media Policy that has been circulated by Comms. Is Purdah and other information on the pre-election period contained in the constitution? LE- no it doesn't need to be in the constitution, it is just guidance and this is circulated to Members and guidance can be given from the Leader or Returning Officer.

Councillor Barbara Johnson:

- What is the status of the action point- Pg 4- minutes- Chairman would remain as Chair- otherwise all other terms would remain gender neutral. LE- confirmed that consistency on this term would be looked at. Member has been changed to Councillor. ‘Member’ remains to reflect an individual who is a member of a committee.
- Found inconsistencies in references to Chair or Chairman throughout the draft of the constitutions and small grammatical errors. LE confirmed these would be checked and corrected.
- Pg 337- Public Speaking at the Planning Committee- Reference to the Market Harborough Civic Society- an update is needed as the existence of this organisation is in peril. LE confirmed that it is simply an illustrative example of a committee.
- Pg 353- point 5.5.32.1- use of the word “Spouse”- this needs to be checked that the term is correct. LE confirmed this would be clarified and/or altered.
- Pg 355- 5.5.31- “insignia worn at funerals”- confirmed that a chairman's badge or ‘funeral pin’ is worn, this omits to refer to this. LE to take this away and consider a minor amendment to include what is appropriate for the Chair to wear at a funeral.

The Deputy Chief Executive confirmed that the Planning Code of Conduct will be looked at in the new municipal year.

Councillor King highlighted that there is nothing in the Allowance Scheme that refers to the Chairman and Vice-Chair of the Councils allowances. LE confirmed this would be updated and refreshed by the Monitoring Officer once the new pay awards are agreed.

Councillor Johnson queried the term ‘Proper Officer’ on Section 2, Article 9, paragraph 20. LE clarified the meaning of this term, the role and what this refers to.

The Deputy Chief Executive highlighted that there will not be time for another meeting of the Task & Finish Group prior to Annual Council hence the reason why Councillors Comments on this draft have been requested. She also

commented that there will be opportunities for communication and training to Members to go over the changes in the constitution, for understanding.

5. To consider any urgent items (to be decided by the Chairman)

The Chair explained that this item will be considering the recent changes to planning powers that have been introduced and the process for dealing with these.

The Deputy Chief Executive explained that on 24<sup>th</sup> April 2024 a new power came into being in that Councils can now issue Planning Enforcement Warning Notices prior to issuing Planning Enforcement Notices. This will be delegated down in the same way as the notices to officers to issue. How this is delegated needs to be considered. The Monitoring Officer can change words and make amendments to delegations, but they cannot add them in as per the constitution, therefore if this was new delegation, this would need to come from another body. The current constitution includes a delegation for Planning Enforcement Notices, and it could be considered that this new power could flow from that delegation. In Part 3, Section 3 of the constitution details on this can be found.

The Deputy Chief Executive explained that advice on this delegation and whether it could incorporate the new delegation would need to be taken on making any needed proposed amendments.

The meeting ended at 19:43



# Harborough District Council



## Report to the Constitution Review Committee Meeting of 3 October 2024

<b>Title:</b>	Constitutional Update
<b>Status:</b>	Public
<b>Key Decision:</b>	Not Applicable
<b>Report Author:</b>	Nancy Barnard, Head of Democratic and Election Services and Monitoring Officer <a href="mailto:n.barnard@harborough.gov.uk">n.barnard@harborough.gov.uk</a> , 07771 937099
<b>Portfolio Holder:</b>	Cllr Phil Knowles (Portfolio Holder for Strategy)
<b>Appendices:</b>	None

### Summary

- i. This report updates the Committee on work underway to ensure that the recently approved Constitution is fit for purpose.

### Recommendations

It is recommended that:

1. the Committee review the information provided in the report and comment as appropriate
2. the Committee notes that members will be invited to comment on the Constitution in general, and the findings of the independent review of the Constitution. In addition, should more detailed discussions be required, a meeting of the Task and Finish Group can be convened to report back to the January meeting of this Committee.

### Reasons for Recommendations

- ii. To provide Councillors with an update on the review of the new Constitution as agreed by Council at the meeting on 20 May 2024
- iii. To provide Councillors with the opportunity to comment on the operations of the new Constitution, noting that a Task and Finish group can be established to carry out more in depth work if required.

# 1. Purpose of Report

- 1.1 To update Councillors on the review of the new Constitution being undertaken by Bevan Brittan Solicitors, as agreed by Council on 20 May 2024.

# 2. Background

- 1.1. The Council's Constitution outlines the way in which the Council operates, including roles and responsibilities, delegation of powers, procedures to be followed, and Codes of Conduct. It supports the efficient, transparent, and legally compliant running of the Council and its decision making processes. All Councils are required by law to establish and maintain a Constitution.
- 1.2. At its meeting on 20 May 2024 Council adopted a new Constitution, produced through numerous Task and Finish Group meetings. This Constitution has been in operation since the date of its adoption.
- 1.3. As well as adopting the Constitution, Council also noted that the refreshed Constitution would be reviewed by an independent Legal Firm specialising in Local Authority Constitutions to ensure any best practice improvements are included. Bevan Brittan LLP have since been appointed to carry out this review.
- 1.4. This report provides an update on the work being carried out as part of the review.

# 3. Details

- 3.1 Following their appointment it has been agreed that Bevan Brittan LLP will review the following information in the Constitution to ensure it is legally compliant and in line with best Constitutional Practice:
  - a) Standards complaints procedure
  - b) Delegations
  - c) Overview and scrutiny
  - d) Officer / Member protocols
  - e) Access to information rules
  - f) Cabinet and Council Procedure rules
  - g) Roles and Responsibilities.

A general sense check will also be carried out to seek to secure that the Constitution works as a cohesive and usable document.
- 3.2 In addition, Section 6.1 of the Constitution: Statement of Required Practice for Procurement, will be reviewed and updated to support compliance with the forthcoming implementation of the Procurement Act. Further work will also be undertaken by the Council's Democratic Services team on the Council's petitions scheme to ensure it is operating in line with best practice.
- 3.3 The review will be carried out over the next few weeks and a full report will be brought to this Committee's January meeting. This is a slight delay on the intended timescale but has the advantage of enabling the new Monitoring Officer to be fully involved in the review.



- 3.4 It is noted that, should any additional work be required a Task and Finish group can be convened during November to review the report from Bevan Brittan LLP, the proposed changes to the Procurement section of the Constitution and any other potential changes to the Constitution suggested at that point. Members will be given the opportunity to comment on the Constitution and should more in depth work be required, a Task and Finish group can be arranged.
- 3.5 The Committee is asked to note the arrangements for the review and to feed back any observations on the operation of the Constitution since its adoption to input into the review as appropriate. It is also asked to convene a meeting of the Task and Finish Group.
- 3.6 It is important that the Constitution is properly understood and complied with by all Councillors and officers, therefore further consideration will be given to what actions, including training, can be taken to embed Constitutional principles and procedures into the operation of the Council. The report to the January meeting of this Committee will also cover how this is being addressed.

## **4. Implications of Decisions**

### **Corporate Priorities**

- 4.1 As the Constitution impacts on every aspect of the Council it will indirectly support the effective delivery of all Corporate Priorities.

### **Consultation**

- 4.2 In preparing this report, no statutory consultation has been required.

### **Financial**

- 4.3 The cost of the review being carried out by Bevan Brittan LLP will be met from existing Democratic Services budgets. There are no further direct financial impacts of the report.

### **Legal**

- 4.4 The requirement to establish and maintain a Constitution is incorporated within section 20 of the Local Government and Housing Act 1989 and supplemented by the Local Authorities (Standing Orders) (England) Regulations 2001 as amended. This report supports this requirement.

### **Environmental Implications**

- 4.5 The Council has declared a climate emergency. This report does not specifically address climate issues however regard has been had to minimising environmental impacts. Where possible electronic documents are to be utilised however when documents are required to be printed, the Council will do this double sided and in black and white. Members are invited to retain and re-use their printed copies as much as possible and recycle them when no longer required.

### **Risk Management**

- 4.6 The main risks in relation to this matter are failing to ensure that the Council has, and maintains, a fit for purpose Constitution.

### **Equalities Impact**

- 4.7 Not applicable.

## **Data Protection**

4.8 As this report contains no personal information, the principles set out in the Data Protection Act 2018 are not engaged.

## **5. Alternative Options Considered**

5.1 A review could have been carried out by Council Officers but having the review conducted by an independent expert brings benefits in terms of the objectivity and broad understanding of best practice elsewhere, as well as the legal expertise to incorporate the requirements of the Procurement Act. This approach was agreed by Council on 20 May 2024 and therefore the option to use in house resource was rejected.

5.2 Carrying out a review is not a legal requirement and therefore it could have been decided not to carry one out. This would not have been in line with the Council resolution and therefore this option was rejected.

## **6. Recommendation**

It is recommended that:

1. the Committee review the information provided in the report and comment as appropriate
2. the Committee notes that members will be invited to comment on the Constitution in general, and the findings of the independent review of the Constitution. In addition, should more detailed discussions be required, a meeting of the Task and Finish Group can be convened to report back to the January meeting of this Committee.

## **7. Background papers**

[The Constitution of Harborough District Council](#)

[Reports to and Minutes of the meeting of Council held on 20 May 2024](#)

# Harborough District Council

## Report to Constitutional Review Committee



### Meeting of

<b>Title:</b>	Voting Procedure at Planning Committee
<b>Status:</b>	Public
<b>Report Authors:</b>	David Atkinson, Director of Planning & Mark Patterson, Strategic Growth Manager (Development Management)
<b>Portfolio Holder:</b>	Cllr Simon Galton (Portfolio Holder for Planning)
<b>Appendices:</b>	None

### Summary

- i. The Constitution Review Committee (“CRC”) is responsible for overseeing the provision of clear and transparent voting procedures in the Council’s Constitution.
- ii. A lack of clarity in voting procedures for Planning Committee arose at a Committee meeting and the Planning Committee was content to enable the CRC to consider necessary changes to the current voting procedure following a report from officers on the matter.

### Recommendations

#### That the Committee:

1. Note the report and consider the Options set out below.
2. Recommend to Council that the Constitution is amended to reflect the voting procedure for Planning Committee outlined in Option 1 set out in paragraph 3.6 below.

### Reasons for Recommendations

- i. It is appropriate that the Constitutional Review Committee recommends that Council amends the voting procedure for Planning Committee to ensure it provides a clear, proportionate and transparent procedure which enables the efficient and effective operation of the Planning Committee.

# 1. Purpose of Report

- 1.1 For Members to consider amendments to the voting procedure for Planning Committee to ensure decisions continue to be made in an open and transparent manner.

# 2. Background

- 2.1 At the meeting of the Planning Committee of 14th May 2024 the Committee decided to vote on the applications for development permission being considered by the Committee by recorded vote.
- 2.2 At the meeting of Annual Council on 20th May 2024 a further debate was held about this issue and the need to ensure that the votes cast at Planning Committee and the result obtained are clear to all.
- 2.3 It was agreed that an options paper would be brought to the next available meeting of the Planning Committee (11<sup>th</sup> June 2024) for the Committee to consider and potentially make recommendations to the next available meeting of the Constitutional Review Committee, depending on the option favoured. The Director of Planning presented a paper, and the Planning Committee resolved to refer the matter to the next available CRC for consideration.

# 3. Details

- 3.1 Following consultation with the Chair of the Planning Committee and the Council's Corporate Management Team (CMT) three potential options were identified for the consideration of the Planning Committee on the 11<sup>th</sup> June 2024. These were:
  - Option 1 – to continue as voting was administered prior to the 14th May 2024 Planning Committee meeting. That Committee members raise their hands to indicate their voting intentions following the proposing and seconding of a proposal concerning an application for development permission. Members of the committee could seek a recorded vote on a particular application, by exception, provided such a motion was proposed, seconded, and supported by at least 5 other members of the Committee in accordance with the provisions laid out in the Council's constitution (this way of operating has mainly worked well in the past and Planning Committee may consider there is not a need to change it: if Committee do wish to consider a change Options 2 and 3 are presented for Committee's consideration).
  - Option 2 – to continue as above with the addition of a Planning Committee Voting Record Sheet, which would be administered by the Democratic Services officer at the meeting. This sheet is appended to this paper as Appendix A for members information. This recording sheet would be an administrative tool to enable Democratic Services and the Chair of the Committee to improve the recording of votes on applications for development permission. (if Planning Committee consider a change is needed, then this option is favoured by officers and the Chair of Planning Committee). Note: The vote recording sheet is included as a Background Paper in Section 6 below.
  - Option 3 – for Planning Committee to make a recommendation to the next available Constitutional Review Committee to make an amendment to the Council's Constitution to enable a recorded vote to be taken concerning every

application for development permission considered by the Planning Committee (this latter option is not considered necessary or appropriate by officers as the scale of many applications for development permission do not merit such an approach, and such an approach could be seen to be an administrative overburden to the work of the Committee).

- 3.2 After discussion, a motion was put forward for Option 3, for a recorded vote to be taken when voting on every application for development permission considered by the Planning Committee. Four Members voted for option 3 and four Members voted against option 3. The Chair used her casting vote to refuse option 3. This motion fell away.
- 3.3 A second motion was put forward for Option 1, to continue with Committee Members raising their hands to indicate their voting intentions following the proposal and seconding of a proposal concerning an application for development permission. Three Members voted for option 1 and five Members voted against option 1. This motion fell away.
- 3.4 A third motion was put forward for Option 2, to continue with raised hands with the addition of a voting record sheet, administered by the Clerk at the meeting, until the October Planning Committee meeting. In the meantime, a report would be written presented to the Constitution Review Committee to consider the options and make any recommendations to Council. Seven Members voted for this proposal and one Member abstained from voting. This motion was carried.
- 3.5 Officers are of the opinion that a simplified set of recommendations are required for the Constitutional Review Committee to consider. As such, the previous suite of options have been reduced to two, with a clear recommendation from Officers as to the preferred option.
- 3.6 **Option 1:** to continue predominantly as voting was administered prior to the 14th May 2024 Planning Committee meeting. That Committee members ensure they indicate their vote *clearly* and maintain that clarity until the point the vote has been recorded by the clerk, following the proposing and seconding of a proposal or recommendation under consideration. For example, this could include members clearly raising their hands above their heads. Members are required to maintain the clarity of their voting intention until such time that the Committee Clerk confirms that votes have been counted and that voting is over. Members of the Committee could seek a recorded vote on a particular application, by exception, provided such a motion was proposed, seconded, and supported by at least 3 (currently 5) other members of the Committee.
- 3.7 **Option 2:** For a Recorded Vote to be taken following the proposing and seconding of a proposal concerning an application for development permission. This procedure would apply to all Planning Reports being considered by the Planning Committee.
- 3.8 Officers are of the opinion that Option 1, which provides for some relatively minor amendments to the existing procedure, will provide for a clear and transparent procedure which is proportionate and appropriate to enabling the efficient and effective operation of the Planning Committee. By ensuring that Members clearly indicate their vote until the Committee Clerk confirms that votes have been counted, there should be no ambiguity over which way a member has voted, and the process is open and transparent for those watching in the gallery and online. Furthermore, by reducing the number of Members who are required to support a motion for a recorded vote from 5 currently to 3 will ensure that

the majority of the Committee agree with the motion without requiring a significant majority as per the current procedure.

- 3.9 Officers are of the opinion that Option 2 – whilst being even more transparent in that the vote of a particular Member on any motion will be recorded in written form in perpetuity – would be onerous and resource heavy in relation to the time required to take a recorded vote on every recommendation considered by the Planning Committee. Officers consider that this option would not be proportionate or appropriate to the efficient and effective operation of the Planning Committee. Many applications considered by the Planning Committee are not of a sufficient scale to warrant such an approach.

## 4. Implications

### Corporate Priorities

- 4.1 It is important to ensure that the Council's Planning Committee operates effectively and efficiently and this meets two KPIs of the Councils Corporate Plan. Both fall under the Place category, DM 01 - Number of major planning applications approved within time scale and DM 02 – Percentage of minor and other applications determined within 8 weeks or other agreed time. The effective operation of the Councils planning committee ensures that planning applications are processed as efficiently as possible thereby contributing to the delivery of both these KPIs.

### Consultation

- 4.2 In preparing this report, no statutory consultation has been required. The report is informed by the views of the Planning Committee as discussed at the meeting of the 11<sup>th</sup> June 2024 and their comments have been incorporated into this report.

### Financial

- 4.3 There are no direct financial implications as a consequence of this report.

### Legal

- 4.4 Section 9P (1) of the Local Government Act 2000 (LGA 2000) **requires a local authority to prepare and keep up to date a constitution**, The requirement is also contained within section 20 of the Local Government and Housing Act 1989 and supplemented by the Local Authorities (Standing Orders) (England) Regulations 2001 as amended. The refreshed Constitution is now a more user friendly and compliant document, which is future proofed as far as possible and is available for inspection during reasonable hours to the general public.

### Environmental Implications

- 4.5 The Council has declared a climate emergency. This report does not specifically address climate issues however regard has been had in the preparation and the engagement with the Planning Committee to minimising environmental impacts such as by conducting as much of the review as possible electronically and as part of existing agendas. Where documents are required to be printed, the Council will do this double sided and in black

and white. Members are invited to retain and re-use their printed copies as much as possible and recycle them when no longer required.

### **Risk Management**

4.6 The main risks in relation to this matter are failing to ensure that the Council has a clear and transparent voting procedure for Planning Committee.

### **Equalities Impact**

4.7 The amendment of the Planning Committee voting procedure does not give rise to any direct equalities and in fact may reduce adverse equalities impacts by ensuring that the Council adopts a clear and transparent voting procedure. At this point however, a full equality impact assessment is not considered necessary.

### **Data Protection**

4.8 As this report contains no personal information, the principles set out in the Data Protection Act 2018 are not engaged.

## **5. Recommendations**

5.1 **That the Committee:**

1. **Note the report and consider the Options set out below.**
2. **Recommend to Council that the Constitution is amended to reflect the voting procedure for Planning Committee outlined in Option 1 set out in paragraph 3.6 below.**

## **6. Background Paper (linked to Option 2 considered by Planning Committee on 11<sup>th</sup> June)**

### **Planning Committee Voting Record Sheet**

<b>APPLICATION NUMBER</b>	<b>REC. PROPOSED &amp; SECONDED BY</b>	<b>PROPOSED &amp; SECONDED BY</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>	<b>RESULT: APPROVE - A REFUSE - R DEFER - D</b>


**REC. = Recommendation**