

FULL COUNCIL

THURSDAY, 8 OCTOBER 2026

***PART 1 – PUBLIC DOCUMENT**

TITLE OF REPORT: Constitutional Changes

REPORT OF: Director - Governance

EXECUTIVE MEMBER: Executive Member - Resources

COUNCIL PRIORITY: Sustainability;

1. EXECUTIVE SUMMARY

This report proposes changes to section 2, Purpose, Definition Interpretation and Amendment of the Constitution to expand the definition of a 'key decision' to include a monetary threshold to assist in defining a 'significant decision'.

A consequential minor amendment to Section 21, Contract Procedure Rule is also required.

This report also proposes a rewrite of section 16 of the Constitution ("Budget and Policy Framework Rules"). The changes would better reflect current practice in relation to policy framework rules and set out a more structured approach to the budget setting process.

2. RECOMMENDATIONS

2.1. To approve that the proposed changes to the Council's Constitution are adopted

3. REASONS FOR RECOMMENDATIONS

The Council's constitution is the framework for the Council's operations and decision making – it ensures that the Council operates in a way which is efficient and transparent, ethical and accountable to local people.

It is a reference point for Members, officers and the public and is a living document which must be kept up to date and legally compliance. This is an iterative process which has been undertaken throughout the year by the Monitoring Officer in accordance with the 'Duty to Monitor and Review the constitution which is set out in Section 2 of the constitution and includes a combination of updates under the general housekeeping delegations in respect of minor amendments as well as more substantive amendments which are undertaken through engagement of the cross-party Constitutional Working Group.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. The Constitution could remain unchanged, however the Constitution would remain unclear in relation to defining key decisions.
- 4.2. Not making some of the changes to section 16 would risk a process that was not robust in terms of setting budgets.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

On the 21st July, the Constitutional Working Group was stood up for the first meeting to debate and discuss constitutional changes. Since that time a number of additional meetings have been held to invite Members to comment on the proposals in this report.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key Executive decision and has therefore not been referred to in the Forward Plan.

7. BACKGROUND:

Expansion of the definition of a key decision:

- 7.1 This report seeks approval from Council to attach a financial threshold of £75,000 to the definition of a key decision. The current constitution relies on the statutory definition of a key decision.
- 7.2 The statutory definition comes from the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. It states that a Key Decision is an executive decision which is likely:
 - (a) to result in the local authority incurring expenditure, or making savings, which are significant having regard to the authority's budget for the service or function concerned;
 - or
 - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards of the authority.
- 7.3 The regulations deliberately do not prescribe a national monetary figure for "significant". Instead, each authority can provide further local guidance in its constitution on what constitutes "significant expenditure" or "significant savings"
- 7.4 In practice this means that a decision will normally be a Key Decision if **either** of the following tests is met:

Test	Practical meaning	Example
Financial significance test	The level of expenditure or savings is sufficiently large when compared with the relevant service budget. Councils often set local thresholds	Awarding a major waste collection contract worth several million pounds.
Community impact test	The decision materially affects residents, businesses or communities in two or more wards. The impact does not have to be financial.	Closing a facility used by residents from several wards, or introducing a district-wide parking scheme.

- 7.5 If a matter is a Key Decision:
- It must be included in the authority's Forward Plan 28 days before the decision is taken
 - Advance notice must be given to members of the public and councillors.
 - The decision is subject to the authority's call-in and scrutiny arrangements unless an exception applies.
 - Additional transparency and access-to-information requirements apply.
- 7.6 Council is asked to approve that the value of £75,000 be set down as significant for the determination of a key decision.

Development of a policy framework

- 7.7 The Council has an established process for taking decisions, which would include any decisions related to the policy framework. This includes consideration of and carrying out public and stakeholder engagement, engagement with Overview and Scrutiny Committee and ultimately decision by Council. These are all set out in the Constitution and relevant strategies (e.g. community consultation strategy). The current wording of section 16 does not add to these established processes, and in place may detract from them.

Current budget setting process

- 7.8 The Council is required to set a balanced budget each year. This is a political decision as it reflects the priorities of the Council, but there are certain duties placed on the Council's Chief Finance Officer (Director – Resources) to ensure that budget is robust and set in accordance with legislation. Whilst the current processes have worked effectively, there would be a benefit to setting them out more clearly, and in some places adding timescales to them.

8. RELEVANT CONSIDERATIONS

Constitutional changes relating to Key Decisions:

- 8.1 North Herts Constitution does not currently include a monetary figure for "significant".
- 8.2 In order to provide clarity, it is proposed that the Council approve the insertion of a financial threshold of £75,000 into the definition set out in Section 2 of the constitution.
- 8.3 To assist, the following table sets out how neighbouring authorities deal with key decisions within their constitutions:

Authority	Constitutional key decision threshold
Stevenage Borough Council	The Council has determined that for Key Decisions, 'significant' means expenditure or savings exceeding £75,000 that has not already been last accounted for in the Council's budget, excluding any of the following excluding any of the following:

Authority	Constitutional key decision threshold
	a. Decisions relating to borrowing and investment within the Council's treasury management strategy; b. Decisions relating to the engagement and payment of staff, unless the Chief Executive determines otherwise; c. Decisions relating to the sale and purchase of land or property below £250,000; and d. Decisions relating to the acquisition of goods, services or works where provision has been made within the budget, and which are to be in accordance with existing Council policy, Contract Standing Orders and Financial Regulations, and where the cost does not exceed £250,000
Hertfordshire Council	The Council will regard a decision as being a Key Decision under (i) above if the expenditure or savings concerned exceeds £500,000
East Hertfordshire Council	A Key Decision is an executive decision which is likely to: (a) result in new expenditure, income or savings of more than £200,000 in relation to the council's revenue or capital budget, this being deemed significant having regard to the council's overall budget; or (b) be significant in terms of its effects on communities living or working in an area consisting of two or more Wards
Central Bedfordshire Council	Over £500,000 expenditure (or equivalent significant savings) or is significant in terms of its effect on communities living or working in an area comprising one or more wards in the area of the Council.
Luton Borough Council	Statutory Definition only
St Albans City & District Council	Committee system
Dacorum Borough Council	Statutory Test only

- 8.4 The definition of key decision is found in Section 2 of the constitution. The changes to the definition are shown in red track changes in Appendix 1. Essentially the word 'significant' as shown in the statutory definition is replaced with the words 'exceeds £75,000.'
- 8.5 An additional consequential change is also required to the Contract Procedure Rules found in Section 21. The table shown on page 232 of the constitution contains a mandatory requirement for a decision notice being published for contracts exceeding £75,000, as shown in **bold** below.
- 8.6 Given that the effect of including a financial threshold to the definition of a key decision is that all decisions in excess of £75,000 will now be key decisions that are evidenced on the forward plan, a further decision notice, post award is no longer necessitated. The bold text can therefore be removed in its entirety.

Section 21, Contract Procurement Rules

Table 1 – Below Threshold Notice Requirements

Requirement	Procurement Activity	Notice Publication	Frequency
Optional	Preliminary market engagement	Preliminary market engagement notice	Publish where pre-market engagement is planned or has taken place
Mandatory	Request for Quotation / Invitation to Tender over £25k	Tender notice	Once at the start of the procurement process
Mandatory	Following award of a contract over £25k	Contract details notice	Once the contract is entered into
Mandatory	Following award of a contract over £75k	Decision notice	Once the contract is entered into and sent to Legal
Mandatory	When a contract modification would take the value of the contract above the relevant threshold, known as “convertible contracts”	Contract change notice	Once when the below-threshold contract becomes a convertible contract and again if further permitted modifications are made

Constitutional changes relating to Section 16

- 8.7 Appendix A sets out the proposed new version of Section 16 of the Constitution. Due to the substantial changes in wording this is shown as a new version, rather than as tracked changes.
- 8.8 Paragraphs 16.1 and 16.2 clarify and simplify the scope of this section, and the process for developing and changing the policy framework.
- 8.9 Section 16.3 sets out the approach for setting the budget each year. This mostly details established practice. The main changes (or formalising what has more recently been developed as good practice) are:
- For opposition alternative budget preproposals to be provided to the Chief Finance Officer in advance of the budget meeting. This allows time for comply with requirements in relation to setting a balanced budget. This is in paragraph 16.3.7.
 - Limiting any late administration budget amendments. This is in paragraph 16.3.8.
 - Each opposition group set of proposals will be treated as a package only. But with an exception where it is necessary to achieve an agreed budget. This is in paragraphs 16.3.9 and 16.3.10.
- 8.10 Sections 16.4 and 16.5 detail the process to be followed for decisions that are outside the policy framework or budget. Unless urgency provisions apply (section 16.5) then this will be a referral to Council. This section also adds new clarification as to what constitutes a decision that is contrary to the agreed budget.

9. LEGAL IMPLICATIONS

- 9.1. Except where delegated by Council, variations to the Constitution may only be made by Full Council.
- 9.2. Pursuant to Section 9P of the Local Government Act 2000, the Council must prepare a constitution and keep it up to date. It must be available to the public and, under the Local Government Transparency Code 2015, be published on the Council's website. The proposed changes in this report will create greater clarity

Other legal implications are stated in the body of the report.

10. FINANCIAL IMPLICATIONS

- 10.1 There are no direct financial implications arising from this report. Overall the proposed changes should support improved financial management and decision making by the Council.

11. RISK IMPLICATIONS

- 11.1. Good Risk Management supports and enhances the decision-making process, increasing the likelihood of the Council meeting its objectives and enabling it to respond quickly and effectively to change. When taking decisions, risks and opportunities must be considered.
- 11.2. The proposed changes help to clarify and strengthen the processes that the Council will follow. This includes improved compliance with legislation relating to key decisions and budget setting. Better governance is an important tool in reducing risk to the Council.

12. EQUALITIES IMPLICATIONS

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2. There are no direct equalities impacts arising from these proposals.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Social Value Act and "go local" requirements do not apply to this report.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. There are no specific Environmental impacts or requirements that apply to this report.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 There are no direct HR implications arising from this report.

16. APPENDICES

- 16.1 Appendix 1 – Amended Section 2 of the Constitution
- 16.2 Appendix 2- Amended Section 16 of the Constitution.

17. CONTACT OFFICERS

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18. BACKGROUND PAPERS