

12 February 2021

## **FULL COUNCIL**

A meeting of the **Full Council** will be held on **Monday, 22nd February, 2021 at 10.00 am**. This will be a virtual meeting and you can observe the meeting [via our Youtube Page](#).

PHIL SHEARS  
Managing Director

### **Membership:**

Councillors Austen, Bradford, Bullivant, Clarence, Colclough, Connett, Cook, D Cox, H Cox, Daws, Dewhirst, Eden, Evans, Foden, Goodman-Bradbury, Gribble, Haines, Hayes, Hocking, G Hook, J Hook, Jeffery, Jeffries, Jenks, Keeling, Kerswell, MacGregor, Morgan, Mullone, Nutley, Nuttall, Orme, Parker-Khan, Parker (Vice-Chair), Patch, Peart, J Petherick (Chair), L Petherick, Phipps, Purser, Rollason, Russell, Swain, Taylor, Thorne, Tume and Wrigley

**Please Note:** The meeting will be live streamed with the exception where there are confidential or exempt items, which may need to be considered in the absence of the media and public.

## **A G E N D A**

### **1. Apologies for absence**

### **2. Minutes**

(Pages 11 - 14)

To approve as a correct record and sign the minutes of the previous Council meeting.

### **3. Announcements (if any)**

Announcements only from the Chair of Council, Leader, Members of the Executive or the Managing Director.

4. **Declarations of interest (if any)**

5. **Public Questions (if any)**

Members of the public may ask questions. A maximum period of 15 minutes will be allowed with a maximum period of three minutes per questioner.

The deadline for questions is no later than 12 noon two working days before the date of the meeting.

6. **Councillor Questions (if any)**

Members of the Council may ask questions of the Council subject to procedural rules.

The deadline for questions is no later than three clear working days before the meeting.

7. **Final Financial Plan proposals 2021/22 to 2023/24**

(Pages 15 - 108)

**Recommendations from Committees to Full Council**

8. **Recommendation from Executive - Teignmouth Public Spaces Protection Order (PSPO)**

The Executive Member for Homes and Communities will present the recommendation from Executive [11 February 2021](#).

**RECOMMENDED** to Council that:-

- (1) On being satisfied that the statutory grounds for making the Order have been established as detailed in the Report, the Public Protection Spaces Order be made; and
- (2) Delegated authority is given to the Head of Community Services and Improvement to:
  - (a) appoint authorised persons for the purpose of giving direction under the Order; and
  - (b) (in consultation with the Solicitor to the Council and the Executive Member for Homes and Communities) make such minor amendments to the draft Order as they considers appropriate, before the Order is sealed.

9. **Recommendation from Executive - Notice of Motion - Equality of Representation**

The Executive Member for Homes and Communities will present the recommendation from Executive [11 February 2021](#).

**RECOMMENDED** to Council that:-

**Motion No (1)**

- (1) Equalities training for members is arranged through Democratic Services and members are encouraged to attend by Group Leaders;
- (2) That the Committee report template is amended to include “Equalities Considerations” and whether a Business Impact Assessment is required; and
- (3) The Council’s Equalities Policy, which expires in 2020, is reviewed and considered by O&S and Executive and included in 2021 Forward Plan

**Motion Nos (2) and (4)**

The Leader of the Council write to the Secretary of State for Education urging him to:

- (4) Review the primary school, GCSE and A Level national curriculum with a view to ensuring that the historical record of the British Empire is treated in a way which fully takes account of slavery, the actions and views of historical figures and other oppressive experiences of BAME people, many of whose descendants are now part of our community.
- (5) Show compassion and understanding by starting a national debate led by the BAME community, which seeks to define racism, the impacts of it in today’s society - and demonstrate how we can all help people of colour feel fully included and welcomed in the UK (this could be part of the current government review)
- (6) Identify a Cabinet minister champion for the BAME community.

**Motion No (3)**

- (7) Councillors to promote the pilot educational project being undertaken in partnership with Teignmouth Community School by raising awareness of the project through their formal and informal networks and encouraging other schools in the District to utilise the curriculum resources developed through the project and/or undertake similar projects in local schools.

**Motion No (5)**

- (8) Following completion of the Equalities Impact assessment on the recovery plan, members of Audit Scrutiny Committee to review and determine if there are any areas of weakness. Comments to then be sought from external registered groups representing the interests of that group.

**Motion No (6)**

- (9) Recommend that the Council encourages local historic societies to identify street names of particular historic significance and develop signage to explain the history behind the street’s name.
- (10) Review the street naming and numbering procedure to reflect the recent LGA advice note relating to requests from the public to change the public realm.

### **Motion No (7)**

(11) An additional 2 questions should be included in the Councillors Community Fund form:

*1. How does your organisation or project meet the needs of (tick all or any that apply)*

- ☐ *Older people (over 65yrs)*
- ☐ *Young people (under 18yrs)*
- ☐ *People with disabilities*
- ☐ *Members of the LGBT community*
- ☐ *Pregnant Women*
- ☐ *Black, Asian and Minority Ethnic (BAME) people*

*Please add any further comments here (Text box)*

*2. Do you have an Equalities Policy Yes / No  
If Yes please upload a copy*

### **10. Recommendation from Executive Notice of Motion - Retention of the £20 Universal credit uplift**

The Leader will present the recommendation from Executive [11 February 2021](#).

**RECOMMENDED** to Full Council that the Leader of the Council is instructed to write to the Chancellor of the Exchequer and the Members of Parliament serving Teignbridge to call for the retention of the £20 Universal credit uplift.

### **11. Recommendation from Strata Joint Executive - Strata Business Plan**

The Executive Member for Recycling, Household Waste and Environmental Health will present the recommendation from Strata Joint Executive Committee [25 January 2021](#).

**RECOMMENDED** that East Devon District Council, Exeter City Council and Teignbridge District Council approve the Strata Business Plan 2020/21 and beyond including:

- (1) The 21/22 Proposed Savings;
- (2) Hardware budgets being returned to East Devon District Council and Teignbridge District Council;
- (3) Appointment of a Data Analyst post;
- (4) Benchmarking to be undertaken by SOCITM; and
- (5) The mechanism for work prioritisation.

## Reports/Items for consideration

### 12. Members Allowances

(Pages 109 - 114)

### 13. Committee Seats and Political Balance

In accordance with the Local Government and Housing Act 1989, the Political Composition of the groups is as below:-

Liberal Democrat Group	23 Seats
Conservative Group	12 Seats
Independent Group	8 Seats
Newton Says No	3 Seats
No Group	1 Seat
<b>Total Seats</b>	<b>47</b>

**RECOMMENDED** that the Seat Allocation be agreed as below:-

Committee	Total Seats	Lib Dem		Con		Ind		NSN		No Group	
Overview & Scrutiny (1)	13	6.36	7	3.32	3	2.21	2	0.83	1	0.26	0
Overview & Scrutiny (2)	13	6.36	7	3.32	3	2.21	2	0.83	1	0.26	0
Planning	17	8.32	8	4.34	4	2.89	3	1.09	1	0.34	1
Licensing & Regulatory	11	5.38	5	2.81	3	1.87	2	0.70	1	0.22	0
Audit Scrutiny	8	3.91	4	2.04	2	1.36	1	0.51	1	0.12	0
Standards	6	2.94	3	1.53	2	1.02	1	0.38	0	0.16	0
Strata Scrutiny	3	1.47	1	0.77	1	0.51	1	0.19	0	0.06	0
<b>Total</b>	<b>71</b>		<b>35</b>		<b>18</b>		<b>12</b>		<b>5</b>		<b>1</b>

To note - in accordance with the Constitution the Leader has informed the Managing Director that Cllr Parker has taken the vacant Liberal Democrat seat on Overview and Scrutiny Committee (1) and Cllr Jenks has come off Planning Committee.

### 14. Waiver of Six Month Councillor Attendance Rule

Section 85(1) of the Local Government Act 1972 sets out that if a councillor does not attend any meeting within a six month period, they will cease to be a member of the authority. This requirement can be waived and the time limit extended if any failure to attend was due to a reason approved by the Council, in advance of the six month period expiring.

Due to ill health Cllr Cook has been unable to attend any meetings since Full Council on 30 September 2020. If the Council does not agreed to extend the non-attendance period, Cllr Cook will cease to be a member after 30 March 2020.

**RECOMMENDED** that Council considers the request to extend Cllr Cook's period of office beyond the six month period of non-attendance provided for within section 85(1) of the Local Government Act 1972 on the grounds of ill health for a period of three months to expire on 30 June 2021.

15. **Constitution**

To receive a verbal up from the Constitution Working Group.

16. **Notices of Motion**

Notice of Motion's shall be referred to the appropriate Committee meeting. The mover of the motion can outline the proposal and then it will stand adjourned. The motion may be debated to assist debate later if agreed by two-thirds of Council Members.

The following motion on Standards Committee process changes has been presented by Cllr Eden and supported by Cllrs Bradford, Daws, Hocking, G Hook, Macgregor, Mullone and Patch.

**Background provided by Cllr Eden to the Motion:**

This Council, as with the vast majority of Local Authorities operates a number of committees monitoring the work of the council and its officers and the political decisions of the administration.

Most Local Authorities, if not all, also have a process which holds councillors to account over failures to adhere to agreed standards, whether through the code of conduct or more generally through the Nolan Principles etc. In the majority of committees the minutes of the work and findings are made available for public viewing and posted onto the Council's website.

Standards committees, not only discuss standards, but are most often delivered as quasi-legal hearings with allegations 'investigated' and reported on, witnesses and statements included in the process.

The findings of the hearings cannot be challenged or appealed. Furthermore, the phrasing of the findings, even where so poorly written as to make no sense, cannot be corrected at the time of initial publication to the website and wider distribution.

It is only the Standards Committees decision that can have a bearing on the individual beyond the remit of the council or their duties as a councillor. Decisions made in a Hearing can impact the career and personal life of a Councillor significantly, financially and negatively. This is particularly true in a modern connected world. Minutes are posted on the website and distributed before the members of the committee have reviewed and agreed them increasing the risk of harm to a reputation that far exceeds the finding against the individual concerned.

This is the only committee that has that potential.

## Wording of Motion proposed by Cllr Eden:

In light of that the proposed motion is as follows. This council resolves that

- 1) No minutes or decision notice from a Standards Hearing are published on the Council Website until all those present at the committee as members have reviewed them.
- 2) No minutes or decision notice from a Standard hearing should be distributed to any external body until the committee has seen debated and approved the minutes and decision notice.
- 3) Minutes should reflect the conclusion of the Investigation and not be used to repeat and re-frame accusations and allegations that are not proven (by the Investigating Officer) as the finding.
- 4) That this authority investigates the potential for seeking an appeal body to ensure natural justice can be delivered beyond the summary findings delivered currently.
- 5) All Investigating Officers to be taken through a due diligence process by Audit Scrutiny.
- 6) All Independent Persons to be taken through a due diligence process and their participation within the process reported to and assessed by the Audit Scrutiny committee.
- 7) (as it does for planning and training for committee members) all Standards Committee members to take appropriate training, in this case Unconscious Bias and Equalities training as part of councillor development – to be extended to the Monitoring officer, investigating officer and independent persons as a requirement for participation.
- 8) the Executive will investigate alternative Standards processes with the Senior Leadership Team, to ensure best quality and best value for money.

The following motion on has been presented by Cllr G Hook and supported by Cllrs H Cox, Dewhirst, Jeffries, Keeling, Macgregor, Nutley, Nuttall, Parker, Rollason and Wrigley.

- 1) Teignbridge Council places on record its gratitude to all sectors of the voluntary and charitable sector for the outstanding work undertaken within the District, particularly but not exclusively during the current Coronavirus pandemic.
- 2) We acknowledge the work of many organisations communities and individuals who have contributed at this uniquely difficult time.
- 3) We further ask the OnS committee to consider ways in which this council may work even more constructively with the sector in the future.

The following motion on has been presented by Cllr Patch and supported by Cllrs Bradford, Daws, Eden and Mullone.

## BACKGROUND

Sometime on or after 20<sup>th</sup> November 2020 a document purporting to be a new version of the Council's Constitution appeared on the Council website. The version of the Constitution last adopted by the Full Council (*Article 4.3 (a)(i)*) states that ***the Full Council is responsible for “adopting and changing the articles in the Constitution or Rules of Procedure – unless otherwise stated”***. Delegated powers had been given to the Monitoring Officer by Full Council in September 2019

to make 'minor' changes to the constitution as part of a 'tidying-up' exercise – at that time assurance was given in writing to Council:

For the avoidance of doubt and as indicated above, **the existing rules will not be materially changed** (i.e. will only cover changes to remove/address clear errors in law or drafting to improve clarity and understanding of the relevant provision as the Monitoring Officer considers appropriate).

(Para 3.6, *Report of Constitution Working Group* to Full Council, 24 Sept, 2019 – my **emphasis** added)

Preliminary inspection of the 'new version' of the Constitution (dated 20<sup>th</sup> November 2020) has revealed **several apparent material changes** from the last adopted version of the Constitution, in the main eroding the rights of Members of the Council and the Public – for example, with respect to:

1. the **rights of Members of this Council to present questions to Full Council** (Articles 4.3.2 (f); Article 4.7.3): *new/extended discretionary powers have been given to the Chairman of the Council and Managing Director, giving them, respectively, greater scope/new powers to reject questions from elected Members (compare with previous Article 4.5 (k));*
2. the **rights of members of the Public to present questions to Full Council** (Articles 4.3.2 (e); 4.7.1 (f)): *new/extended discretionary powers have been given to the Chairman of the Council and Managing Director, giving them, respectively, greater scope/new powers to reject questions from members of the Public (compare with previous Articles 4.5 (j)(vi) and 4.5 (j)(v));*
3. the **rights of Members of this Council to present Motions on Notice to Full Council** (Article 4.9.3): *new/extended discretionary powers have been given to the Managing Director (in consultation with the Chair of Council) allowing him to reject Motions on Notice from elected Members (compare with previous Article 4.5 (l)(iii));*
4. the **remit of Overview and Scrutiny Committee 1** (Article 3.6.2): *the scope of what of what is covered under Work Area 'Strategic Direction' of the Council, and hence what might be scrutinised by this committee, has been restricted/reallocated elsewhere (compare with Resolution of Full Council on 3<sup>rd</sup> September 2020 – and as still currently recognised on the TDC website for this committee's Remit:  
<https://democracy.teignbridge.gov.uk/mgCommitteeDetails.aspx?ID=391>);*
5. the **powers of Overview and Scrutiny Committees (1&2) to require Senior Officers and Executive Members to attend and explain decision, actions and performance** (Articles 3.5.3 (f) & (g)): *these powers have been*



*diluted (compare with previous Article 5.5 (a)(i));*

6. **loss of the power of Group Leaders to veto delegated ‘minor’ changes to the Constitution that might be “to the detriment of a member of the public or a councillor ...”** (Article 2B3 [sic: second 2B3] Section 6 (Schedules Only), Page 5 of 20): *the Monitoring Officer has been given the delegated power to make changes “as he [sic] considers appropriate” – without the veto protections previously provided to Group Leaders with respect to what are defined as ‘minor’ changes (power was previously delegated to Democratic Services Manager – these have been duplicated for the Monitoring Officer, although without the power of veto for Group Leaders – compare with previous Article 4.3 (b) – penultimate row of table on page 15).*

*(In each case the Article No. in the new document is provided – for comparison with the corresponding provisions in the last Adopted version of the Constitution – i.e., the Constitution available prior to 20<sup>th</sup> November 2020).*

These material changes (not an exhaustive list), insofar as they were *not authorised* in the powers delegated to the Monitoring Officer, represent *unconstitutional changes*. Indeed, **powers given to the Managing Director in the ‘new version’ include proposals that were referred back to the Constitution Working Group by Full Council on 3<sup>rd</sup> September 2020 for further consideration (Minute 44 Resolution Part 4)**. Consequently, the following Motion is presented to Council:

## **MOTION**

This Council resolves to:

- A) strive to uphold the integrity of the Constitution of this Council;
- B) reinstate the last version of the Constitution to be *properly adopted by this Council* – i.e., the version in place prior to the version dated 20<sup>th</sup> November 2020; in doing so, to have the previous version’s Articles/documents reinstated on the Teignbridge District Council website in place of the version dated 20<sup>th</sup> November 2020;
- C) ensure that future material changes to the Constitution of this Council are made in accordance with the Constitution, and only after a full consideration and scrutiny of the extent and nature proposed changes.

If you would like this information in another format, please telephone 01626 361101 or e-mail [info@teignbridge.gov.uk](mailto:info@teignbridge.gov.uk)