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13 July 2021

## PROCEDURES COMMITTEE

A meeting of the **Procedures Committee** will be held on **Wednesday, 21st July, 2021** in the **Council Chamber, Forde House, Brunel Road, Newton Abbot, TQ12 4XX** at **10.00 am**

PHIL SHEARS  
Managing Director

### **Membership:**

Councillors Bullivant, Connett, D Cox, H Cox, Haines, Mullone, Parker-Khan, Parker (Chair), Patch, L Petherick and Thorne

**Please Note:** The public can view the live streaming of the meeting at [Teignbridge District Council Webcasting \(public-i.tv\)](#) with the exception where there are confidential or exempt items, which may need to be considered in the absence of the press and public.

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

### **Part I**

1. **Apologies for absence**
2. **Election of Vice-Chair**
3. **Declarations of interest**
4. **Remit of the Procedures Committee**

To remind Members the remit of the Committee as below:-

- (a) To review the operation of the Constitution, its Standing Orders, conventions and working practices;
- (b) To oversee the Councils programmes for member development/training; and
- (c) To make recommendations to the Council on its Scheme of Members' Allowances.

## 5. Notice of Motion - Constitution

Link to the [Constitution - Teignbridge District Council](#)

To consider the Notice of Motion on the Constitution which was submitted by Cllr Patch to Full Council on 22 February 2021 and referred to the Procedures Committee by Executive 13 May 2021.

### 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.

### 6. Voting on Minutes

To consider that if a member either votes against or abstains in a vote on the approval of the recorded minutes of a meeting, s/he gives an explanation as to the reasons for their vote.

### 7. Recommendation from Standards Sub-Committee

To consider the recommendation from [Standards Sub-Committee on Tuesday, 6th July, 2021 Teignbridge District Council](#)

**RECOMMENDED** to the Council's Procedures Committee for consideration;

- (1) The council's Procedural Rules should be amended so that councillors serving on the Planning Committee are no longer permitted to vote on applications within their ward;
- (2) Motion to Approve/Refuse/Defer Planning Applications should be made at the end of a debate on the application, which would allow any questions raised during debate to be answered;
- (3) All Councillors be reminded that the deadline for submission of new information on planning applications being considered by the Planning Committee is midnight Thursday prior to the meeting and no later; and
- (4) Any new information or submissions regarding planning applications should be submitted to the planning email address.

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)