

E-mail: [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk)

8 July 2022

## **PROCEDURES COMMITTEE**

A meeting of the **Procedures Committee** will be held on **Friday, 15th July, 2022** in the **Buckland Athletic Football Club, Kingskerswell Rd, Newton Abbot, TQ12 5JU** at **10.00 am**

PHIL SHEARS  
Managing Director

### **Membership:**

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

**Please Note:** Filming is permitted during Committee meeting with the exception where there are confidential or exempt items, which may need to be considered in the absence of the press and public. By entering the meeting room you are consenting to being filmed.

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

### **Part I**

1. **Apologies for absence**
2. **Election of a Deputy Chair**
3. **Minutes of the previous meeting** (Pages 3 - 4)
4. **Declarations of interest**
5. **Revisions to the Constitution** (Pages 5 - 70)

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## Procedures Committee

Friday, 28 January 2022

Present:

Councillors Bullivant, Connett (Vice-Chair), D Cox, H Cox, Haines, MacGregor and L Petherick

Members in Attendance Virtually:  
Councillors Parker-Khan and Swain

Apologies:  
Councillors Parker and Thorne

Officers in Attendance:  
Trish Corns (Democratic Services Officer), Sarah Selway (Democratic Services Team Leader & Deputy Monitoring Officer) and Paul Woodhead (Head of Legal Services & Monitoring Officer to the Council)

### 1 Minutes of the previous meeting

The minutes of the meeting on 14 October 2021 were agreed as a correct record and by the Deputy Chair.

### 2 Declarations of interest

None.

### 3 Notice of Motion - Constitution

Cllr Swain presented his Notice of Motion regarding proposed amendments to the Constitution. Members discussed the suggestions put forward.

**RECOMMENDED** to Full Council that:-

- (1) 4.3.2(e): public questions - "*the business of the meeting*" be amended to read to "*the business of the council*";
- (2) Section 6, Schedule 2 row 2B3: minor amendments to the constitution, to add in after minor changes "*i.e. change which no Group Leader feels is significant in that it fundamentally changes existing provisions*"; and
- (3) To modified the constitution to use gender neutral language throughout to replace references to *chairman* with *chair* and *he/his* with *they/their*.

#### **4 Item from the Chair - Cllr Parker**

The Leader presented the item on behalf of Cllr Parker on the time line for public and members questions to committees.

Members discussed the need to have clear timelines for member and public questions and to have the responses circulated in adequate time to enable those submitting questions to be able to form their supplementary questions. Members asked officers to prepare a paper for the next meeting on the resource implications for the questions and responses timelines.

Members requested that an item on a council petition scheme be considered at the next meeting.

**RECOMMENDED** to Full Council that the time lines for *submitting public and member questions to committee be three clear working days before the meeting i.e should the meeting be on a Thursday the deadline would be the Friday before at 5pm.*

#### **5 Item from Cllr Macgregor**

Cllr Macgregor presented his agenda item to propose that “*Matters Arising from the minutes*” be added to the Full Council agenda following the item to agree the minutes.

The Head of Legal Services & Monitoring Officer to the Council clarified that council minutes were a record of the decisions made and were not a verbatim record of the meeting.

Members discussed the option of Overview and Scrutiny Committees following up matter arising from Council minutes.

The recommendation was proposed, seconded, put to the vote and lost.

#### **6 Members Training and Development Programme**

Members noted the Training and Development Programme.

The meeting started at 10.00 am and finished at 10.56 am.

Chair

**Teignbridge District Council  
Procedures Committee  
12 July 2022  
Part i**

**Report Title**

Revisions to the Constitution

**Purpose of Report**

To seek support for the proposed changes to the Constitution along with any consequential amendments to associated documents.

**Recommendation(s)**

That the proposed changes to be submitted to Full Council be supported by the Committee.

**Financial Implications**

There are no financial implications arising from the report apart from the proposed changes in financial limits for authorisations and key decisions.

Martin Flitcroft – Head of Corporate Services  
Email: [martin.flitcroft@teignbridge.gov.uk](mailto:martin.flitcroft@teignbridge.gov.uk)

**Legal Implications**

There are no specific legal issues arising from the report save that the Council will not be able to Register its land transactions as appropriate.

Paul Woodhead, Head of Legal Services and Monitoring Officer  
Email: [paul.woodhead@teignbridge.gov.uk](mailto:paul.woodhead@teignbridge.gov.uk)

**Risk Assessment**

The proposed changes are considered necessary to clarify ambiguity, mitigate the risk of challenge and to give effect to the requirements of Statutory organisations.

Paul Woodhead, Head of Legal Services and Monitoring Officer  
Email: [paul.woodhead@teignbridge.gov.uk](mailto:paul.woodhead@teignbridge.gov.uk)

**Environmental/Climate Change Implications**

None

Paul Woodhead, Head of Legal Services and Monitoring Officer  
Email: paul.woodhead@teignbridge.gov.uk

## **Report Author**

Paul Woodhead, Head of Legal Services and Monitoring Officer  
Email: paul.woodhead@teignbridge.gov.uk

## **Executive Member**

Cllr Richard Keeling - Executive Member for Corporate Services

## **Appendices/Background Papers**

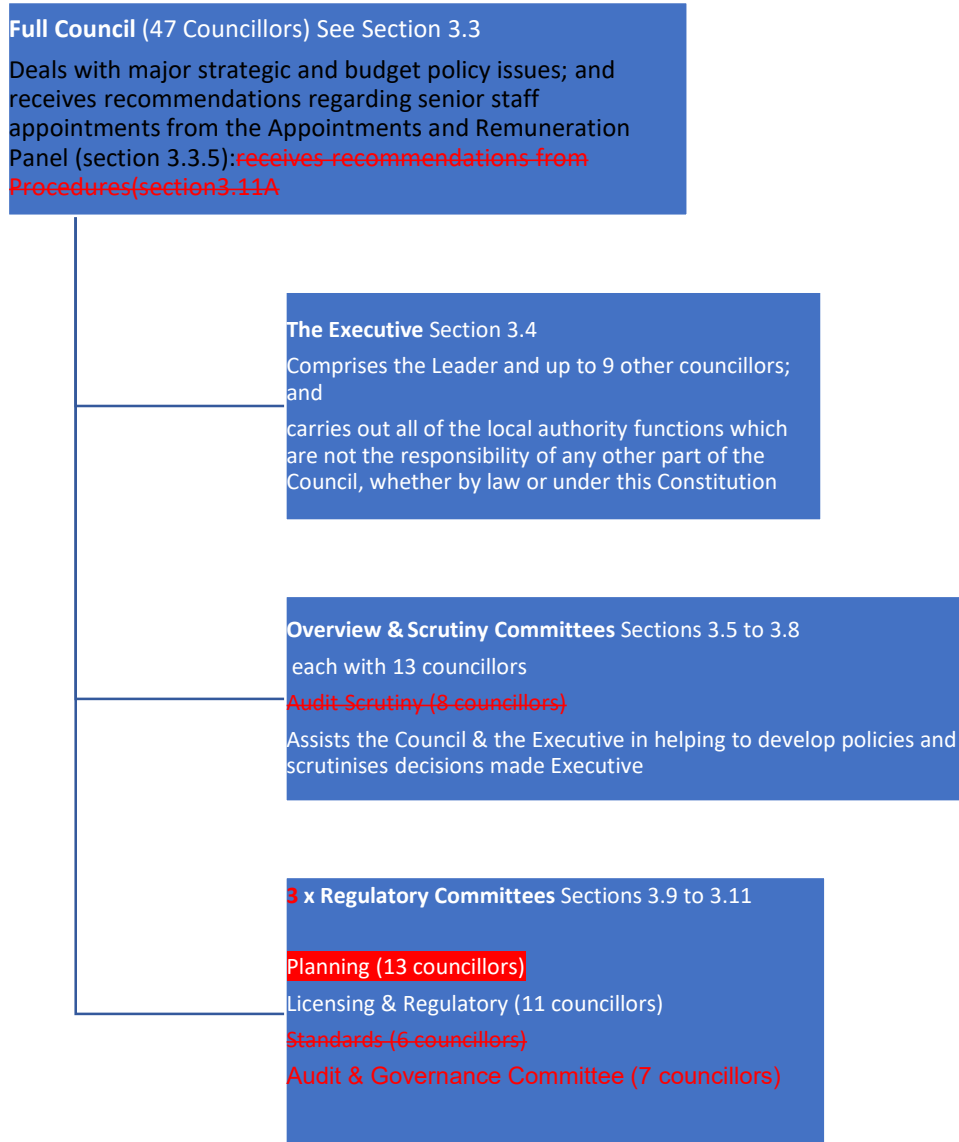
Copies of those Parts of the Constitution being amended and which show the proposed changes by way of tracked changes.

### **1. Introduction/Background**

- 1.1 This report arises as a consequence of a review of the Council's Constitution and procedures by the Monitoring Officer and Deputy Monitoring Officer. The review having been undertaken following (amongst other things), notification of changes to Land Registration procedures/requirements, receipt of a number of Code of Conduct complaints, consideration of reports/observations arising from external review(s) and the ongoing need to provide better value for money.

## 3. Decision Making Structure

- 3.1 The Council's Decision Making Structure is illustrated here. Some decisions are made by officers in accordance with the Scheme of Delegations in Section 6.



- 3.2 The terms of reference (including their membership and specific responsibilities) are detailed below. The rules of procedure which apply to the meetings of each body are detailed in Section 4 of the Constitution.

### **3.3 Full Council**

**3.3.1 Membership:** The Full Council consists of all Councillors who represent the wards of the District of Teignbridge.

**3.3.2 Areas of work:** Full Council is ultimately responsible for all decisions of the Council but delegates decisions to the Executive; the other committees set out above; and also to some officers as set out in the Scheme of Officer Delegations in Section 6. The primary areas of work which Full Council undertakes comprise:

- (a) Adopting and making substantive changes to the Constitution;
- (b) Approving or adopting the policy framework and the budget (including approving the Annual Budget and setting the Council Tax);
- (c) Creating committees and sub committees (such decisions not to be undertaken by committees) and approving joint arrangements as necessary, with one or more local authorities to carry out such functions as it considers appropriate, including the appointment of a Joint Committee;
- (d) Appointing the Leader; Chair and Vice Chair of Council; committee membership including the chair and vice chair of committees;
- (e) Assessing the performance of the Leader and passing a resolution if necessary removing the Leader from their position of Leader;
- (f) Adopting a members' allowances scheme;
- (g) Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;

and additionally, all other matters which, by law, must be reserved to Council.

**3.3.3** Although the vast majority of staff appointments are the responsibility of the Head of Service, the Council also appoints its Senior Leadership Team on the recommendation of the Appointments and Remuneration Panel. The latter's terms of reference are set out in Section 3.3.5 below. The Panel does not have any decision making powers, being advisory only. The Panel shall consist of four members appointed by full Council who shall be:

- (a) Leader of the Council who shall be the Chair of the Panel;
- (b) Group Leader of the political group with the largest number of councillors other than the group of which the Leader of the Council is a member;
- (c) Group Leader with next number of Councillors (again other than the group of which the Leader of the Council is a member);
- (d) Portfolio Holder which covers area of Corporate Resources.

Where such appointments are not possible, the Group Leader of the relevant group may nominate another member (and substitute) as they think fit.

**3.3.4 Chair:** The Chair of the Council (and in their absence the Vice Chair) has certain responsibilities and the Vice-Chair acts in the chair's absence. The political leadership of the Council is the responsibility of the Leader. The Chair's responsibilities comprise:



- (a) To be the conscience of the Council;
- (b) To perform and attend such civic duties and carry out the ceremonial duties of the Council as they consider appropriate;
- (c) To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (d) To preside over full Council meetings so that its business can be carried out efficiently and with regard to the rights of citizens and the interests of the community;
- (e) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Executive are able to hold the Executive to account;
- (f) To promote public involvement in the Council's activities;
- (g) To agree what constitutes a matter of urgency.

3.3.5. **Appointment and Remuneration Panel:** The Panel will ~~make recommendations to the Council on the~~ discharge of its duties in relation to ~~the following, making recommendations to Full Council where appropriate:~~

- (a) the appointment (including interim arrangements) of the Head of Paid Service, Monitoring Officer and s151 Officer ("Statutory Chief Officers") and the terms and conditions relating to such appointments;
- (b) the appointment (including interim arrangements) of any other Chief Officers of the Council (being those comprising the Senior Leadership Team;
- (c) disciplinary action against or the dismissal of Statutory Chief Officers, subject to legislative requirements regarding their appointment and dismissal specifically, the Joint National Council (JNC) Model Disciplinary Procedure for Chief Officers and the views of such independent persons required to be appointed to investigate such matters;
- (d) the terms of any payments and other remuneration to any Officer where such payments and other remuneration would result in a total payment exceeding £100,000 per annum;
- (e) to decide upon and carry out the recruitment process leading to the recommendations for the appointments referred to in paragraph (a) and (b); including deciding upon whether such appointments are advertised externally or confined to internal applicants;
- (f) to make recommendations to the Council on the discharge of the Council's legislative requirements in relation to the adoption of a Pay Policy Statement.

There is an appeals procedure which will involve an Appeal Panel (which must not be constituted of any members involved in the original decision or process). This Panel will be set up in accordance with the JNC Model Disciplinary Procedure for Chief Officers.

### 3.4 **The Executive**

**3.4.1 Membership:** The Executive consists of the Council's Leader, a Deputy Leader, together with up to eight other Councillors. The Leader is appointed by the Council. The Deputy Leader and up to eight Executive Members are appointed to the Executive by the Leader.

**3.4.2 Areas of Work:** The Role of the Executive is to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

**3.4.3 The Leader:** The Leader of the Council is the chair of the Executive. Unless the law or circumstances direct otherwise, the Leader is elected to the position of Leader by the Council for a period of four years at the annual meeting immediately following the local government elections. The Leader will hold office until:

- (a) they resign from the office; or
- (b) they are suspended from being a councillor (although they may resume office at the end of the period of suspension); or
- (c) they are no longer a councillor; or
- (d) they are removed from office by resolution of the Council.

**3.4.4 Executive Members:** The areas of responsibility of each member of the Executive is determined solely by the Leader who may vary such during their term of office as they considers appropriate. Such members will exercise regular budget monitoring of the resources allocated by the Council for those purposes, monitor performance, strive to deliver the Council's Corporate Objectives, seek to achieve best value in the services for which they are responsible and have regard to the Council's other policies and strategic objectives.

3.4.5 Executive Members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being councillors (although they may resume office at the end of the period of suspension); or
- (c) they are no longer councillors; or
- (d) they are removed from the Executive, either individually or collectively by the Leader of the Council.

**3.4.6 Executive Decisions:** The Leader, after consultation with the other members of the Executive and the Managing Director, will table at every meeting of the Executive a list of what they consider are **key decisions** and once this list has been approved such decisions shall not be taken other than by the full Executive. **Each member of the Executive is authorised to make the following decisions** without a meeting of the Executive. If an Executive Member is absent or otherwise unavailable to act the Leader (or in their absence, the Deputy Leader) may deputise.

- (a) Make any decision other than a key decision which is both within their remit and does not contravene Council approved policy and budget
- (b) Two or more Executive Members may jointly agree to make a decision which is within their collective remits
- (c) Before taking any decision under this delegation, the Executive Member shall, so far as is reasonably practicable, consult any Member whose ward is particularly affected by that decision and shall arrange for a copy of any

report which they intend to take into account in coming to a decision to be made available to the Chair of the Overview/Scrutiny Committee and to the local Ward Member(s) if it relates to a local issue

- (d) As soon as is reasonably practicable, complete and sign a form provided by the Team Leader (Democratic Services) summarising any such decision they have made together with reference to the relevant report or other information which was taken into account by them.

**3.4.7 Key Decisions:** Unless otherwise provided by law, a key decision means an Executive decision which is likely:

- (a) To result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates. For this purpose significant expenditure or savings shall mean in the case of revenue any contract or proposal with an annual payment of more than £~~100,000~~ ~~50,000~~; and in the case of capital, any project with a value in excess of £~~250,000~~ ~~125,000~~; or
- (b) To be significant in terms of its effects on communities living or working in an area comprising two or more wards in the opinion of the Head of Service or the Managing Director. A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in this Constitution.

**3.4.8 Notification of Key Decisions (whether individual or full Executive decisions)**

- (a) Once made, the decision will be notified to all Members of the Council within 2 clear working days.
- (b) The notice will bear the date on which it is published and will specify that the decision(s) which it records will come into force 5 working days after that date unless it is 'called in'. (Please see Section 8(b) for the Call in Procedure).

#### **3.4.9 Items referred to Executive**

The Monitoring Officer will make sure that an item is put on the agenda of the next available meeting of the Executive where a relevant scrutiny committee or the Council have resolved that an item be considered by the Executive. However, there may only be up to 6 such items on any one agenda.

The Managing Director, Monitoring Officer or Chief Finance Officer can put an item on the agenda. If the item is urgent, they can require a special meeting to consider it.

### **3.5 Scrutiny Committees: General Terms of Reference**

3.5.1 These committees are appointed in accordance with the statutory requirements to achieve **political balance**. The **Chair and Vice Chair** of the Committee are appointed by Annual Council each year. Should a Chair and/or Vice Chair relinquish their position during the civic year the Chair/Vice Chair will be elected at the first meeting after they relinquish the position each relevant committee at the commencement of its first meeting in each civic year. The committees collectively discharge the functions conferred by Section 21 Local Government Act 2000.

3.5.2 So far as relevant to their specific terms of reference (see Sections 3.6 to 3.8), the committees:

- (a) Set their own work programmes;
- (b) Review and scrutinise the performance of the Council in relation to its policy objectives and develop new policy recommendations for Executive and full Council approval;
- (c) Report annually to full Council on their workings and where appropriate, propose amendments in their working methods.

3.5.3 In doing so, the committees may:

- (a) make recommendations to full Council and the Executive arising from its work as part of call in measures or policy development and service improvement;
- (b) appoint review / working groups to investigate specific time limited tasks and report back to it within an agreed time period;
- (c) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (d) recommend to the Council the appointment of up to 5 co-optees (without voting rights) onto their committee or sub-committees;
- (e) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (f) question Members of the Executive, committees and Chief Officers about their decisions, views on issues and proposals affecting the area or specific policy proposals and reviews;
- (g) ask witnesses to attend committee and informal meetings (and where appropriate require on provision of reasonable notice) to address them on any matter under consideration and may pay to any external advisers, assessors and witnesses reasonable expenses for doing so with the Team Leader (Democratic Services) authorised to approve the level of payment and make payments;
- (h) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- (i) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committees and local people about their activities and performance; and
- (j) if it, or the Chair of the Committee, or five members of the Committee considers that a key decision has been taken which was not included in the

forward plan; or the subject of the general exception procedure; or the subject of an agreement with the appropriate Overview and Scrutiny Committee Chair, or the Chair/Vice-Chair of the Council:

- to resolve that the Executive to submit a report to the Council within such reasonable time as the committee specifies; or
- for the Chair of the Committee or any five members to request the Head of Paid Service to arrange for a report to be submitted on the matter to the Committee.

### **3.6 Environment and Communities Overview and Scrutiny Committee (1): Specific Terms of Reference**

**3.6.1 Membership:** All Councillors except Members of the Executive may be members of the committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved. The committee has 13 members (excluding co-opted members) who are elected councillors who are appointed at the Annual Meeting of Full Council.

**3.6.2 Areas of Work:** The committee is responsible for policy / strategy development and review and the scrutiny of decisions made in respect to the Strategic Direction responsibilities of the Leader and the following portfolio areas of the Executive:

- Environmental Health
- Waste Management (including recycling)
- Climate Change Emergency
- Housing
- Communities
- IT

### **3.7 Corporate and Economy Overview and Scrutiny Committee (2): Specific Terms of Reference**

**3.7.1 Membership:** All Councillors except Members of the Executive may be members of the committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved. The committee has 13 members (excluding co-opted members) who are elected councillors who are appointed at the Annual Meeting of Full Council.

**3.7.2 Areas of Work:** The committee is responsible for policy / strategy development and review and the scrutiny of decisions made in respect to the following portfolios areas of the Executive:

- Business, Economy and Tourism
- Planning (Executive functions only)
- Corporate Resources
- Sport, Recreation and Culture

### **~~3.8 Audit Scrutiny Committee: Specific Terms of Reference~~**

**~~3.8.1 Membership:~~** ~~All Councillors except Members of the Executive may be Members of the Audit Scrutiny Committee. However, no Member may be~~

Updated ~~July 2022-22 February 2022~~

Version 1

~~involved in scrutinising a decision in which they have been directly involved. The Committee has eight members who are elected councillors and who are appointed at the Annual Meeting of Full Council.~~

**3.8.2 Areas of Work:** ~~Its role is to actively review and improve the Council's corporate governance arrangements. In this regard, the Audit Scrutiny Committee will be attended by Chief Finance Officer and the Audit Manager or their nominated deputies. Its responsibilities include:~~

~~(a) Financial Management of the Council:~~

- ~~• To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.~~
- ~~• To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.~~
- ~~• To consider a report from the Chief Finance Officer on agreed recommendations which have not been implemented within a reasonable time scale.~~
- ~~• To maintain an overview of the Council's Constitution in respect of contract procedure rules or financial regulations.~~

~~(b) Internal Audit:~~

- ~~• To consider the Chief Finance Officer's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements;~~
- ~~• To consider summaries of specific internal audit reports as requested;~~
- ~~• To consider reports dealing with the management and performance of the providers of internal audit services.~~

~~(c) External Audit:~~

- ~~• To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance;~~
- ~~• To comment on the scope and depth of external audit work and to ensure it gives value for money.~~

~~(d) Other corporate governance matters:~~

- ~~• To review any issue referred to it by the Chief Executive or Business Lead, Monitoring Officer or any Council committee;~~
- ~~• To monitor the effective development and operation or risk management and corporate governance in the Council;~~
- ~~• To monitor Council policies on 'Raising Concerns at Work' and the anti-fraud and anti-corruption strategy and the Council's complaints process.~~



- ~~• To oversee the production of the authority's Statement on Internal Control and to recommend its adoption;~~
- ~~• To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice;~~
- ~~• To consider the Council's compliance with its own and other published standards and controls.~~

### 3.8 Audit and Governance Committee

3.8.1 **Membership:** The committee has seven members who are elected councillors who are appointed at the Annual Meeting of Full Council. The membership shall exclude Group Leaders and Executive Members. The committee is politically balanced. The **Chair and Vice Chair** of the Committee are appointed by Annual Council each year. Should a Chair and/or Vice Chair relinquish their position during the civic year the Chair/Vice Chair will be elected at the first meeting after they relinquish the position. The committee shall be entitled to co-opt up to two independent members who shall have the necessary knowledge and skills to be of value to the proceedings of the committee.

3.8.1 (a) At least one Independent Person will be appointed in accordance with Localism Act 2011 Section 28 to support the work of the Monitoring Officer and Standards Committee.

3.8.2 **Areas of Work:** To provide an independent and high level focus on the adequacy of the Council's governance, risk management and control arrangements and Member Conduct.

Its responsibilities include:-

Financial Management of the Council:

- To review and approve the annual statement of accounts. ~~Specifically, to consider whether appropriate accounting policies have been followed~~ and to consider whether there are significant concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
- To consider a report from the Chief Finance Officer on agreed recommendations which have not been implemented within a reasonable time-scale.
- To consider amendments to the Council's Financial Instructions and Contract Procedure Rules, prior to recommending to Council for adoption.

Internal Audit:

- To consider the Audit Manager's ~~Chief Finance Officer's~~ annual report and opinion, and a summary of internal audit activity (actual and proposed) and the

level of assurance it can give over the Council's corporate governance arrangements;

- To consider summaries of specific internal audit reports as requested;
- To consider reports dealing with the management and performance of the providers of internal audit services.
- To periodically review and approve the internal audit charter incorporating internal audit's terms of reference

#### External Audit:

- To consider the opinion, reports and recommendations of external audit and their implications for governance and control~~external auditor's annual letter, relevant reports, and the report to those charged with governance;~~
- To comment on the scope and depth of external audit work and to ensure it gives value for money.

#### Other corporate governance matters:

- To review any issue referred to it by the Managing Director or Business Lead, Monitoring Officer or any Council committee;
- To consider the effectiveness of the Council's~~monitor the effective development and operation of~~ risk management and corporate governance arrangements in the Council;
- To monitor Council policies on 'Raising Concerns at Work' and the anti-fraud and anti-corruption strategy and the Council's complaints process.
- To ~~oversee the production~~ review and approve of the Council's Statement on Internal Control Annual Governance Statement ~~and to recommend its adoption;~~
- To consider the Council's arrangements for corporate governance and agreeing monitoring necessary actions to ensure compliance with best practice;
- To consider the Council's compliance with its own and other published standards and controls.

#### Members **B**ehaviour and Code of conduct

- To promote and maintain high standards of conduct by Councillors and co-opted members
- To advise and recommend to Full Council on the adoption or revision of the Members' Code of Conduct
- To recommend training in respect of conduct, standards and the Members Code of Conduct
- To promote and help maintain high standards of conduct, co-optees, Parish & Town councillors and any other relevant appointed representatives



- ~~• To deal with the local filtering of complaints (including in respect to parish and town councillors) and dispensation requests (where these are not dealt with by the Monitoring Officer under delegated powers);~~

Conduct local hearings and determine sanctions should a breach of the code been found and in such cases

A sub-committee may be formed which membership shall be limited to three be selected to sit on the particular sub-committee according to their availability and they can;

- deal with complaints about a /district/parish / town councillor, the sub-committee should also include a non-voting parish / town council representative; and
- at least one independent person should be consulted by the sub-committee (or full committee as appropriate) prior to determination of any complaint or otherwise as required by law.

~~The Committee will maintain an overview of the Council's Constitution, will review the operation of the Constitution, its Procedural Rules, conventions and working practices. It will oversee Member development and training and make recommendations to Full Council on the Scheme of Members Allowances.~~

### **3.9 Planning Committee**

**3.9.1 Membership:** The committee has 173 members who are elected councillors who are appointed at the Annual Meeting of Full Council. The committee is politically balanced. The Chair and Vice Chair of the Committee are appointed by Annual Council each year. Should a Chair and/or Vice Chair relinquish their position during the civic year the Chair/Vice Chair will be elected at the first meeting after they relinquish the position. Each member of the committee is required to complete in full an induction programme; undertake regular training; and attend development updates in relation to the planning function. Any member not undertaking these training activities will be unable to serve (or continue to serve) on the committee until such time that the full training requirement has been met. Up to three substitute members may be appointed by each political group (see paragraph 3.13 for requirements regarding such appointments).

**3.9.2 Areas of Work:** The committee deals with the Council's local planning authority function in respect to the determination of development and other applications requiring a formal determination by the Council and other planning matters set out in the Town and Country Planning Act 1990 (including subordinate and related legislation) other than those applications delegated to officers under delegated powers. This works includes the determination of:

- (a) applications for planning permission, consent under the building regulations and other building control matters, listed buildings consent, advertisement consent, hazardous substances consent;
- (b) consultations from the Dartmoor National Park Authority, other adjoining authorities and Devon County Council;
- (c) modification of planning permissions and non-material amendments;
- (d) certificates of lawful use and development;
- (e) tree preservation orders;
- (f) building preservations;
- (g) breaches of planning, listed building, conservation area, advertisement control including requisite legal action;
- (h) planning obligations;
- (i) prior approvals and notifications;
- (j) screening and scoping opinions for environmental impact assessments; and
- (k) high hedges complaints.

**3.9.3 Site Inspection Teams:** ~~The committee may appoint such teams to view the sites the subject of applications to help inform debate at the committee by submitting a report (including verbal) on its findings. These reports are for guidance and the site inspections are informal with no public right of access. Each site visit shall be attended by the Site Inspection Team chosen for that particular site visit. The Site Inspection Team shall comprise of only three Members of the Planning Committee chosen by the Committee *ad hoc* on a roll-call basis.~~

The procedure for site inspections is as follows:

- (a) **Attendance:** The only people authorised to attend a site inspection are:
- Members of the Site Inspection Team
  - ~~Ward Members~~
  - ~~Up to two persons authorised to represent the Parish/Town Council for the application site~~
  - Planning Officer
  - ~~County Environment Director's representative and/or other statutory consultees~~
  - ~~Other Teignbridge Members (as observer).~~

Applicants/Agents, objectors and members of the public are excluded.

- (b) **Procedure:**
- The Planning Officer outlines the proposal and Members may ask any questions of the officer.
  - ~~Other attendees may give their view and Members may ask any questions of them~~
  - A Member of the site inspection team should be elected to report back to the Planning Committee with their findings (as agreed) when the application is next being considered

### 3.10 Licensing & Regulatory Committee

**3.10.1 Membership:** The committee has 11 members who are elected councillors who are appointed at the Annual Meeting of Full Council. Only non-Executive Members are eligible. The Chair and Vice Chair of the Committee are appointed by Annual Council each year. Should a Chair and/or Vice Chair relinquish their position during the civic year the Chair/Vice Chair will be elected at the first meeting after they relinquish the position. The committee is politically balanced. The Chair or the Vice-Chair of the Committee will, if in attendance at a sub-committee (comprising up to 3 members of the Committee) dealing with licensing applications and / or appeals, chair the sub-committee; otherwise the sub-committee will appoint a chair for the meeting. Up to three substitute members may be appointed by each political group (see paragraph 3.13 for requirements).

**3.10.2 Areas of Work:** Within its specific terms of reference below, the committee may appoint sub-committees to deal with its business and wherever possible these will be politically representative, the chair of such being appointed by the sub-committee.

3.10.3 The committee's responsibilities comprise:

- (a) All statutory licensing functions of the Council;
- (b) To hear and determine on behalf of the Council (via its sub-committee), any application or appeal within the committee's terms of reference; and
- (b) To consider and recommend to Council on all matters concerning licensing policy and procedure.

3.10.4 In undertaking its work:

- (a) The proceedings of the committee and any sub-committee shall be conducted with regards to its relevant statutory licensing functions in accordance with the applicable legislation; and
- (b) There is no automatic right for a Teignbridge Councillor to address sub-committee hearings. Councillors wishing to do so must follow the due process for making relevant representations set out in relevant legislation (e.g. Licensing Act 2003).

### **3.11 Standards Committee**

~~**3.11.1 Membership:** The committee has 6 members who are elected councillors who are appointed at the Annual Meeting of Full Council.~~

~~**3.11.2 Areas of Work:** In undertaking its responsibilities (below), the Committee may appoint sub-committees to deal with its business as follows:~~

- ~~(a) To promote and maintain high standards of conduct by Councillors and co-opted members;~~
- ~~(b) To advise the Council on the adoption or revision of the Members' Code of Conduct;~~
- ~~(c) To advise or train councillors, co-opted members and parish / town councillors on matters relating to the Members' Code of Conduct;~~

- ~~(d) To deal with the local filtering of complaints (including in respect to parish and town councillors) and dispensation requests (where these are not dealt with by the Monitoring Officer under delegated powers);~~
- ~~(e) To conduct local hearings and determination of sanctions should a breach of the code of conduct be found; and in such cases:~~
  - ~~• the sub-committee membership be limited to 3 members of the committee, selected to sit on the particular sub-committee according to their availability;~~
  - ~~• when dealing with complaints about a parish / town councillor, the sub-committee should also include a non-voting parish / town council representative; and~~
  - ~~• at least one independent person should be consulted by the sub-committee (or full committee as appropriate) prior to determination of any complaint or otherwise as required by law.~~

### **Section 3.11A Procedures Committee**

**3.11A.1 Membership:** ~~The committee comprises the following elected councillors:~~

- ~~(a) The Chair of Council (who will Chair the Committee);~~
- ~~(b) All Group Leaders;~~
- ~~(c)(a) Two additional members from each Group (who are appointed at Annual Council) provided that the Group comprises 10% or more of the Council full membership; and any member may be substituted if a committee member is unable to attend.~~

### **3.11A.2 Areas of Work:**

- ~~(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.~~

## **3.12 All Decision Making Bodies: Principles of Decision-Making**

3.12.1 All decisions will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights – it is important that human rights should be considered at an early stage in the decision-making process;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes;
- (f) the record of decisions will include details of the options which were considered and the reasons for the decision as required by law;
- (g) in the case of decision making by bodies acting as tribunals or in quasi-judicial manner (other than for the purposes of giving advice) the civil rights

and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial.

### 3.13 **Requirements for appointment of Substitute Members:**

A Substitute Member may only attend, speak or vote at a meeting in place of another Member of a relevant committee, who is not a substitute and who is unable to attend a meeting where the non-attending Member has advised the Democratic Services team (by 4.00 p.m. on the last working day prior to the meeting) by email at [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk) (unless otherwise agreed by the Team Leader (Democratic Services)) that they will not be attending and nominating the name of the substitute from those appointed for the Committee.

Appointment names will be nominated by the Group Leaders at the start of the municipal year.

No substitutes may attend unless they have received the necessary training to the satisfaction of the Team Leader (Democratic Services).

Substitute Members will be listed on agenda papers and will receive all agenda papers to ensure transparency of process for the public and that they are aware of all pertinent issues when attending the meeting.

Substitute Members, when appointed for a meeting, shall take precedence over the unavailable Member, even if they become available during the course of the meeting, and their rights to attend and vote will remain to any subsequent meeting should it be adjourned.

Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties excisable by the person they are substituting, i.e. the Chair of a Committee.

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## 4. Procedural Rules

4.1 This section describes the procedure rules that apply to:

- (a) meetings of the full Council (when all members attend as voting members), the Executive and committee meetings and states any exceptions to the rules which apply to specified meetings (see paragraphs 4.2 – 4.17);
- (b) additional rules that apply to the Executive and / or committees (see paragraphs 4.18 – 4.19);
- (c) public access to information (see paragraph 4.20); and
- (d) miscellaneous matters including financial, contract and legal matters (see paragraphs 4.21 – 4.28).

4.2 The procedure rules apply to all formal meetings of full Council, Executive and committee unless otherwise specified in the Table below:

<u>Meeting</u>	<u>Exceptions</u>
Executive	<p>No written motions</p> <p>No Member questions</p> <p>Non-Executive Members are required to notify the Leader in advance <u>if they wish to speak on an agenda item at the Executive</u></p> <p>Requirement to meet at least <u>128</u> times per year</p> <p>Notes of key decisions are circulated to all Councillors</p> <p>May delegate decisions to committees, an Executive Member or an Officer and for avoidance of doubt is not prevented from discharging functions itself which it has delegated</p>
Licensing & Regulatory Committee	<p>No written motions</p> <p>Public speaking permitted in accordance with published operational arrangements for licensing hearings</p> <p>No public questions</p> <p>No Member questions</p>
Scrutiny Committees	<p>No written motions (other than ones referred to it by Council to consider and resolve)</p> <p>Requirement for Overview and Scrutiny Committees to meet at least 6 times per year (collectively) <del>and for Audit Scrutiny to meet at least 4 times per year</del></p>

Planning Committee	No written questions or motions Public speaking permitted in accordance with published operational arrangements agreed by the Head of Place and Commercial Services and Chair of the Committee No limit on number of questions from Members of the Committee as part of the consideration of the matter in committee No public questions
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<u>Audit and Governance Committee</u>	<u>No motions</u> <u>No public questions</u> <u>No member questions</u>
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Standards Committee	<del>No motions</del> <del>Public speaking permitted in accordance with published operational arrangements for standards hearings</del> <del>No public questions</del> <del>No Member questions</del>
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<del>Procedures</del>	<del>Not Politically Balanced</del> <del>No Motions</del> <del>No public questions</del>
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### 4.3 Full Council

#### 4.3.1 Annual Meeting of the Council

Unless otherwise specified by law, in a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors; and in any other year, the annual meeting will take place in March, April or May. The annual meeting will:

- (a) elect a person to preside if the Chair of Council for the previous civic year is not present;
- (b) elect the Chair of Council;
- (c) elect the Vice-Chair of Council;
- (d) approve the minutes of the last Council meeting;
- (e) receive any announcements from the Chair and/or Managing Director;
- (f) elect the Leader (unless the appointment was made for a four year term following the Council election or the Leader post is vacant);
- (g) agree any changes to the Constitution (including any changes to committees)
- (h) appoint the membership of Committees;
- (h)(i) appointment Chairs and Deputy Chairs of Committees
- (i)(j) consider any business set out in the notice convening the meeting.

The order of business shall be at the Chair's absolute discretion



### 4.3.2 Ordinary Meetings

At Ordinary meetings of the Full Council, the Council will:

- (a) elect a person to preside if the Chair and Vice-Chair are not present;
- (b) approve the minutes of the last meeting;
- (c) receive any declarations of interests from Members;
- (d) receive any announcements from the Chair, Leader, other Members of the Executive or the Managing Director;
- (e) receive questions ~~and answer questions from Members of the Public from, and provide answers to, the public in relation to matters which in the opinion of the Chair are relevant to the business of the council;~~
- ~~(f) receive and answer questions from Members which in the opinion of the Chair are relevant to the business of the Council;~~
- ~~(g)~~(f) deal with any business from the last Council meeting;
- ~~(h)~~(g) receive reports from Executive, committees and other bodies (including questions and answers on such reports) as appropriate;
- ~~(h)~~ consider motions;
- (i) receive and answer questions from Members
- (j) consider any other business specified in the summons to the meeting.

The order of business shall be at the Chair's absolute discretion

### 4.3.3 Extraordinary Meetings

Those listed below may request the Managing Director to call Council meetings in addition to ordinary meetings:

- (a) the Council by resolution;
- (b) the Chair of the Council;
- (c) the Monitoring Officer or the Chief Finance Officer; or
- (d) any five Members of the Council if they have signed a requisition presented to the Chair of the Council and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

At such extraordinary meetings the Council will:

- (a) elect a person to preside if the Chair or Vice-Chair of Council are not present;
- (b) receive declarations of interests from Members; and
- (c) receive the report(s) on the subject of the meeting.

## 4.4 Quorum

4.4.1 The quorum for meetings will be:

- (a) one-quarter of the whole number of Members of the Committee or Full Council as appropriate

- (b) two members for the Appointments and Remuneration Panel
- (c) four members for the Executive provided that where the Executive is required to divide into two committees, the quorum will be three
- (d) 100% of the membership for a sub-committee of the Standards Committee or Licensing & Regulatory Committee.

4.4.2 During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

#### 4.5 **Notice of and Summons to Meetings**

The Democratic Services Team Leader will give notice to the public of the time and place of any meeting in accordance with the law. The time and place of meetings will be determined by the Democratic Services Team Leader (in consultation with the Chair of the relevant committee) and notified in the summons.

#### 4.6 **Chairing of the Meeting**

The person presiding at the meeting may exercise any power or duty of the Chair.

#### 4.7 **Questions**

##### 4.7.1 **Questions by the Public**

- (a) Members of the public may ask questions of the Chair of Council, Executive Member (including the Leader) or a Committee Chair.
- (b) The Democratic Services Team Leader will refer these to the appropriate member for reply. A maximum period of ~~30~~15 minutes will be allowed ~~with a maximum period of three minutes per questioner. The timing of questions will be one minute for a question, two minutes for a response and the same for supplementary questions~~
- (c) Questions will be asked in the order ~~that notice~~ they were received. ~~If all the questions cannot be taken those not dealt with shall automatically be referred to the next Ordinary Council meeting., except that t~~The Chair of the relevant meeting may group together similar questions.
- (d) ~~Questions must be about something the Council has responsibility for.~~
- (e)(e) A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Team Leader (Democratic Services) at [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk) no later than ~~three~~ five clear working days before the meeting *i.e. should the meeting be on a Thursday the deadline would be the ~~Friday~~Wednesday before at 5pm.* Each questioner must give their name and address.
- (d) At any one meeting no person may submit more than three questions and no more than three such questions may be asked on behalf of one organisation.

- ~~(e)~~(f) The ~~Monitoring Officer~~~~Managing Director~~ may reject a question if it:
- relates to something that is or should be the subject of alternative recognised procedures (for example, staffing issues, complaint, licensing or planning matters);
  - is not about a matter for which the local authority has a responsibility ~~or does not affect the District;~~
  - is defamatory, frivolous or offensive;
  - Is contrary to the Constitution
  - is substantially the same as a question which has been previously put in the past six months; or
  - requires the disclosure of confidential or exempt information.
- ~~(f)~~(g) The Chair will invite the questioner to put the question. If a questioner who has submitted a written question is unable to be present, the Chair will put the question on their behalf.
- ~~(g)~~(h) Answers will normally be given in writing. An answer may take the form of a direct oral answer; where the desired information is in a publication of the Council or others published work, a reference to that publication; or a written answer. The responses will be published on the Councils web site the day before the relevant Council meeting.
- ~~(h)~~(i) In exceptional circumstances questions may be referred to another Committee at the discretion of the Chair.
- ~~(i)~~(j) A questioner who has put a question in person may also put one supplementary question without notice.
- ~~(j)~~(k) A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds applicable to the scope of questions in (f) above.
- ~~(k)~~(l) Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Members to whom it was to be put, will be dealt with by a written answer.

#### 4.7.2 Questions by Members without Notice

Members of the Council may ask the Leader or the Chair of a Committee any question without notice upon an item of the report of the Executive or a Committee when that item is being received or under consideration by the Council.

#### 4.7.3 Questions Requiring Notice

Other than under the provisions for questions without notice described above a Member may only ask a question of the Chair; Member of the Executive; or the Chair of any Committee or sub-committee, on any matter:

- (a) in relation to which the Council has powers or duties; ~~or~~  
~~(b) which affects the District of Teignbridge~~

and which falls within the terms of reference of that committee. The question should not be one relating to the daily running and procedures of the council which could have been asked of the relevant Chief Officer.

A Member may only ask a question in accordance with 4.7.3 if either:

- (a) they have given written notice of the question no later than ~~three~~ five clear working days before the meeting *i.e. should the meeting be on a Thursday the deadline would be the ~~Wednesday~~ Friday before at 5pm* to the Democratic Services Team Leader (email [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk)); or
- (b) the question relates to urgent matters, they have the consent of the Chair to whom the question is to be put and the content of the question is given to the Democratic Services Team by email [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk) on the day of the meeting.

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

A Member asking a question may ask one supplementary question, without notice, of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

Members may ask a maximum of three questions per meeting and the timing of questions will be one minute for a question, two minutes for a response and the same for supplementary questions. The overall time limit for all member questions will be 30 minutes

The ~~Monitoring Officer Managing Director~~ may reject a question for one or more of the grounds set out in paragraph 4.7.1 (f) above.

## 4.8 **Rules of Debate**

### 4.8.1 **No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

### 4.8.2 **Right to require motion in writing**

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to them before it is discussed.

#### 4.8.3 **Seconders's speech**

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

#### 4.8.4 **Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order with the exception of the mover of a motion who may speak for five minutes. No speech may exceed three minutes without the consent of the Chair.

#### 4.8.5 **When a Member may speak again**

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- to speak once on an amendment moved by another Member;
- to move a further amendment if the motion has been amended since they last spoke;
- if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- in exercise of a right of reply;
- on a point of order; and
- by way of personal explanation.

#### 4.8.6 **Amendments to motions**

An amendment to a motion must be relevant to the motion and will either be:

- to refer the matter to an appropriate body or individual for consideration or reconsideration;
- to leave out words;
- to leave out words and insert or add others; or
- to insert or add words

as long as the effect is not to negate the motion.

Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

If an amendment is not carried, other amendments to the original motion may be moved.

If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### **4.8.7 Alteration of motion**

A Member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

A Member may alter a motion which they has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

Only alterations which could be made as an amendment may be made.

#### **4.8.8 Withdrawal of motion**

A Member may withdraw a motion which they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### **4.8.9 Right of reply**

The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

The mover of the amendment has no right of reply to the debate on their amendment.

#### **4.8.10 Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules;
- (h) to not hear further a Member named under 4.16.3 or to exclude them from the meeting under 4.16.4.

#### 4.8.11 Closure motions

A Member may move, without comment, the following motions at the end of a speech of another Member:

- to proceed to the next business;
- that the question be now put;
- to adjourn a debate; or
- to adjourn a meeting.

If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote.

If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 4.8.12 Point of order

A Member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chair on the matter will be final.

#### 4.8.13 Personal explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

### 4.9 **Motions on Notice (only applicable to Full Council)**

#### 4.9.1 Notice

Except for motions which can be moved without notice under 4.10 notice of every motion, must:

- (a) be delivered in writing or by electronic mail,
- (b) signed by at least five Members, and



- (c) be delivered to the Democratic Services Team not later than ~~seven~~ 5pm ten clear working days before the date of the meeting.

The councillor proposing the notice must be supported by four other councillors who must sign the notice, if written, or submit separate emails of support, within the prescribed timescales.

#### 4.9.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

#### 4.9.3 Scope

The relevant motion must fall within the following scope which will be determined by the Monitoring Officer~~Managing Director~~ (in consultation with the Chair of Council):

- (a) Motions must be about matters that the Council is responsible for which are related to the responsibilities of the Council or which directly affect the District (and are not found on the meeting agenda).
- (b) Motions may not relate to the personal affairs or conduct of individual Members.
- (c) Motions must not include inappropriate or inflammatory language.

#### 4.9.4 Process

Subject to the following, the Chair of Council shall refer the Notices of Motion to the appropriate meeting, (i.e. the Executive for Executive business or for non-Executive items, a committee).

In such cases the mover of the motion can outline the proposal and then it stands adjourned to the appropriate meeting.

The motion may be debated if agreed by two-thirds of the Council Members present at the meeting.

Items which relate to the Council's responsibilities can be taken at the full Council meeting unless the Constitution requires consultation with a Committee or referral to an Officer as designated in the Constitution or by law.

#### 4.9.5 Vote of No Confidence in the Leader

A Motion of No Confidence in the Leader must be signed by at least five Members and be submitted in writing to the Democratic Services Team Leader not later than 5pm ten clear working days before the date of the meeting (i.e. for a meeting on a Tuesday the deadline will be the Monday at 5pm two weeks before the meeting). Any such Motion is in addition to Motions submitted under 4.9 above such motions must be confined to the Leader's capability as Leader



of the Council. The Motion will normally be taken as the first item of business after announcements (The order of business is at the discretion of the Chair).

A motion of No Confidence in the Leader of the Council office may only be considered on one occasion by the Council in any six month period.

The proposer of the motion shall set out the reasons for seeking the vote. The Leader may respond if they so choose.

If the motion is seconded then a vote shall be taken and the motion shall be carried by simple majority.

The Leader may address the Council if they so choose. In the event that the Leader resigns the position a new Leader shall be elected at the meeting where the resignation takes place.

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#### 4.9.6 A Motion to remove the Leader of the Council

A Motion to remove the Leader of the Council must be signed by at least five Members and be submitted in writing to the Democratic Services Team Leader not later than 5pm ten clear working days before the date of the meeting (i.e for a meeting on a Tuesday the deadline will be the Monday at 5pm two weeks before the meeting) . Any such Motion is in addition to Motions submitted under 4.9 above and must be confined to actions taken by/or the conduct of the Leader in their role as Leader. The Motion will normally be taken as the first item of business after announcements (The order of business is at the discretion of the Chair).

A motion to remove the Leader of the Council office may only be considered on one occasion by the Council in any six month period.

The proposer of the motion shall set out the reasons for seeking the removal of the Leader. The Leader may respond if they so choose.

If the motion is seconded then a vote shall be taken and the motion shall be carried by simple majority.

Where the Council passes a resolution to remove the Leader, a new Leader will be elected at the meeting at which the Leader is removed from office.

#### **4.10 Motions without Notice**

4.10.1 The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;

- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council Procedure Rule;
- (n) to exclude the public and press in accordance with the law;
- (o) to not hear further a Member named under 4.16.3 or to exclude them from the meeting under 4.16.4;
- (p) to give the consent of the Council where its consent is required by this Constitution.

#### **4.11 Motion to rescind a previous decision**

Unless there has been a material change of circumstances, a motion or amendment to rescind a decision made at a meeting within the past six months cannot be moved unless the notice of motion is signed by at least one-third of the Members of the Council.

#### **4.12 Motion similar to one previously rejected**

Unless there has been a material change of circumstances, a motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least one-third of the Members of the Council.

Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

#### **4.13 Voting**

##### **4.13.1 Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

##### **4.13.2 Chair's casting vote**

If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

#### **4.13.3 Show of hands**

Unless a ballot or recorded vote is demanded under the ballot rules below, the Chair will take the vote by show of hands or by means of the electronic voting system, or if there is no dissent, by the affirmation of the meeting.

#### **4.13.4 Ballots**

The vote will take place by ballot if a majority of Members present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

#### **4.13.5 Recorded vote**

If legislation requires or at least 5 Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

A demand for a recorded vote will override a demand for a ballot.

#### **4.13.6 Right to require individual vote to be recorded**

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

#### **4.13.7 Voting on appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

### **4.14 Minutes**

4.14.1 Unless legislation provides otherwise, the Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

### **4.15 Exclusion of Public and Media for Interruption of Proceedings**

If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room. If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

### **4.16 Members' Conduct**

#### 4.16.1 **Standing to speak** (applicable to Full Council only)

Other than in the case of Members who are attending remotely, when a Member speaks at Full Council they must stand and address the meeting through the Chair. If more than one Member stands, the Chair of Council will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

#### 4.16.2 **Chair standing or demand for silence**

When the Chair demands or stands, any Members speaking at the time must be silent and where relevant, sit down. The meeting must be silent.

#### 4.16.3 **Members not to be heard further**

If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

#### 4.16.4 **Member to leave the meeting**

If the Member continues to behave improperly after such a motion is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

#### 4.16.5 **General disturbance**

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

### 4.17 **Agenda Items**

Agenda items must be approved by the Chair and Managing Director provided that a Member may, upon giving ten working days' notice to the Team Leader (Democratic Services) and the Chair of a committee / Executive have an item placed on the agenda of the Executive or a committee if the subject is relevant to the work and scope of that forum. Items placed by individual Councillors will be marked as such and they will be allowed to speak to them subject to other relevant notice requirements.

### 4.18 **Invited Guests and Non Committee Members attending Committees and the Executive**

4.18.1 Committees and the Executive may invite guests to attend their meetings and non-Committee Members may attend including Part 2 items (subject to other

relevant rules including the Code of Conduct which serve to restrict access in appropriate cases).

4.18.2 Invited guests are likely to be expert witnesses or interested parties who the Committee or Executive considers will be able to contribute to the work of the committee. The Committee / Executive will determine the length of the appointment which may be for one meeting or longer but it should only be for as long as the person is likely to make a contribution to the business of the committee. The person will not be a co-opted Member of the Committee / Executive and will not have voting rights. The person will have the ability to speak and participate in the debate at the discretion of the Chair. Members will at all time treat invited guests with respect and will acknowledge their voluntary contribution in asking questions appropriately.

#### **4.19 Procedural Rules Specific to the Executive**

##### **4.19.1 Reports to Executive:**

All reports to the Executive from any Member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration

##### **4.19.2 Key Decisions:**

- (a) Notice of Key Decision:** Subject to the provisions of this Rule a key decision may not be taken unless a notice (called here a "Notice of Key Decision") has been published in connection with the matter in question; at least 28 clear days have elapsed since the publication of the "Notice of Key Decision"; and where the decision is to be taken by the Executive legal notice of the meeting has been given.

The Notice of Key Decision will state that a key decision is to be taken by the Executive (including a committee of the Executive, individual members of the Executive officers, area committees or under joint arrangements in the course of the discharge of an executive function) and will describe the matter in respect of which the decision is to be made; where the decision maker is an individual, their name and title, if any and where the decision maker is a body, its name and a list of its membership; the date on which, or the period within which, the decision is to be made; a list of the documents submitted to the decision maker for consideration in relation to the matter; the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available; that other documents relevant to those matters may be submitted to the decision maker; and the procedure for requesting details of those documents (if any) as they become available.

The Notice of Key Decision must be made available for inspection by the public.

- (b) The Forward Plan:** The Council is not required by law to publish a Forward Plan. However, notices of Key Decisions and notice of Private Meetings of the Executive will set out details of specific key decisions and key decisions anticipated over a four month period (including decisions to be made by Executive, individual Executive members or delegated officers, which are not key decisions). In this constitution, such notices are together referred to as the "Forward Plan". The Forward Plan does not have to include exempt information and should not include confidential information.

- (c) General Exception:** If a matter which is likely to be a key decision has not been included in the forward plan, then subject to paragraph (d) below (Special Urgency), the decision may still be taken if:

- i. the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- ii. the Monitoring Officer has informed the Chair of the relevant scrutiny committee, or if there is no such person, each Member of that committee in writing, by notice, of the matter to which the decision is to be made;
- iii. the proper officer has made copies of that notice available to the public at the offices of the Council; and

- iv. at least five clear days have elapsed since the proper officer complied with (a) and (b).

As soon as reasonably practicable after compliance with the General Exception requirements, the reasons why compliance with paragraph 4.19.2 (b) is impractical will be published.

- (d) **Special Urgency:** If by virtue of the date by which a key decision must be taken paragraph (c) (General Exception) cannot be followed, then the key decision can only be taken if the decision maker obtains the agreement of the Chair of the relevant scrutiny committee that the taking of the decision cannot be reasonably deferred. If the relevant Chair is unable to act or unavailable, the agreement of the Chair of Council, or in their absence the Vice Chair of Council will suffice.

As soon as reasonably practicable after compliance with such requirements the reasons why the meeting is urgent and cannot reasonably be deferred will be published.

- (e) **Report to Council:** When the relevant scrutiny committee resolves that a key decision has been taken which was not the subject of a Notice of Key Decision; or the subject of the general exception procedure; or the subject of an agreement with the Chair of the relevant scrutiny committee of Council as appropriate as provided for above, it may require the Executive to submit a report to the Council within such reasonable time as the relevant scrutiny committee specifies.

The report must include details of the decision and the reasons for the decision, the decision maker, and the reasons, if any, for the Executive believing that the decision was a key decision. The power to require a report rests with the relevant scrutiny committee but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the committee when so requested by the Chair of the relevant scrutiny committee or any 5 members of the committee. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant scrutiny committee.

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the following Council meeting.

- (f) **Quarterly reports on Special Urgency Decisions:** In any event the Leader will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in paragraph (d) (Special Urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.



- (g) **Record of Decisions:** After any meeting of the Executive the Team Leader (Democratic Services) or, where no Officer was present, the person presiding at the meeting, will produce a written record of every decision taken at that meeting as soon as practicable. The record will include the decision including the date it was made; the reason for the decision; details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made; any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and in respect of any declared conflict of interest, a note of dispensation duly granted.

#### 14.9.3 Executive Decisions by Officers:

Where an officer receives a report which they intend to take into account in making any key decision in conjunction with a Member of the Executive then they will not make the decision until at least 5 clear working days after receipt of that report.

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of the relevant scrutiny committee as soon as reasonably practicable and make it publicly available at the same time.

As soon as reasonably practicable after an Executive decision has been taken by an officer, they will prepare, or instruct the proper officer to prepare, a record of the decision, including the date it was made a statement of the reasons for it and any alternative options considered and rejected, a record of any conflict of interest declared by any Executive member which relates to the decision, and a note of any dispensation granted by the Head of Paid Service. The provisions of for inspection of documents after meetings will also apply to the making of decisions by an officer in consultation with individual Members of the Executive.

#### 14.9.4 Access to Executive Documents by Members:

Scrutiny committees will be entitled to copies of any document which is not in draft form, in the possession or control of the Executive.

All Members will be entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business previously transacted at a private meeting unless it contains exempt information; or it contains the advice of a political advisor; or is in draft form.

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive which is part of a Key Decision.

These rights of a Member are additional to any other right they may have.



4.19.5 **Call in of Executive Decisions:** see Section 8(b) of the Constitution which sets out the procedure for call on by the Scrutiny Committees of Executive Decisions.

#### **4.20 Access by the Public to Council and Committee Meetings (including the Executive)**

4.20.1 These rules apply to all formal meetings of the Council and its committees. These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law. Members of the public may attend all meetings of the Council and committees subject only to the exceptions in these rules.

4.20.2 The Council will give at least 5 clear days' notice of any meeting of the Council and its committees by posting details as required by law and on the Council's website.

4.20.3 The Council will make copies of the agendas and reports open to the public available for inspection at least 5 clear days before the meeting. If an item is added to the agenda later, the revised agenda and any report will be available for public inspection as soon as practicable. All agendas, reports, decision notices and minutes which are open to public inspection will be made available on the Council's web site ([www.teignbridge.gov.uk](http://www.teignbridge.gov.uk)).

4.20.4 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt or confidential information would be disclosed; or the Chair of the meeting following a warning to the said person requires the person to leave the meeting room, for which the Chair may in his absolute discretion adjourn the meeting to facilitate such departure.

4.20.5 The relevant access to information and meeting rules are governed by law. To be exempt from public access, the relevant information must fall within the following categories (subject to any condition) AND it must be considered by the relevant meeting that the information should be excluded in the public interest. Information is not exempt if it relates to proposed development for which the Council as local planning authority can grant itself planning permission under Regulation 3 Town and Country Planning Regulations 1992.

Category	Qualification
1. Information relating to any individual.	Information is not exempt information unless it relates to any individual.
2. Information which is likely to reveal the identity of an individual.	Information is not exempt information unless it would reveal the identity of

an individual.

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Information is not exempt information unless it relates to the financial or business affairs of any person, including the body holding that information.

4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.

Information within this paragraph 4 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter. “Labour relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974 i.e. matters which may be the subject of a trade dispute.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Information is not exempt information unless, in view of the Solicitor to the Council, legal privilege could be maintained in legal proceedings.

6. Information which reveals that the authority proposes—
  - a. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b. to make an order or direction under any enactment.

Information within paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Information is not exempt information unless it relates to action taken or to be taken in connection with the prevention, investigation or prosecution of crime

4.20.6 If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his opinion relates to items during which, in accordance with 4.20, the meeting is likely not to be open to the public. Such reports will be marked not for publication and specify the category of information likely to be disclosed.

**4.21 State of the District of Teignbridge Debate at a Council Meeting**

The Leader and Deputy Leader may call a State of the District of Teignbridge debate annually as a separate event from the Council Meeting. The Leader and Deputy Leader will decide the format and content of the event which will be a separate event from the Council meeting. The debate will be chaired by the Chair of Council. The results of the debate will be reported to the Council meeting.

**4.22 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Rules set out in Section 7 of the Constitution.

**4.23 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Section 7 of this Constitution.

**4.24 Legal Proceedings**

The Solicitor to the Council and those persons authorised by them are authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests.

**4.25 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Solicitor to the Council or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract entered into on behalf of the Council in the course of the discharge of an Executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made in accordance with the Financial Regulations set out in Section 7.

**4.26 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services ~~Council's Solicitor~~. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal Services ~~Council's Solicitor~~ should be sealed.

The affixing of the Common Seal will be attested by the Head of Legal Services ~~Council's Solicitor~~ or such other person authorised by them.

Signing of documents

The Monitoring Officer and/or Head of Legal Services can sign any document necessary to carry out the Council's decisions or protect its interests including certificates given under the Local Government (Contracts) Act 1997.

The Managing Director and members of the Senior Leadership Team may sign documents on behalf of the Council or authorise officers whom they manage and in accordance with delegated powers stated under the Council Constitution to sign documents on behalf of the Council if:

- the document is about a function which they or an officer who reports to them has budgetary or management responsibility for and
- the constitution or the law does not require the document to be signed by someone else and
- they have had regard to any advice from the Chief Finance Officer and Monitoring Officer

#### Execution of the deeds

The common seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. It will be attested by the Head of Legal Services, or an officer nominated by them. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal Services should be sealed. The Council will keep a book recording when the common seal is used. The book will be signed by the officer who attests the seal.

The deed will be validly executed if:

1. the Common Seal has been affixed; and
2. the deed has been signed by the Head of Legal Services or in their absence any member of the Senior Leadership Team; and
3. the signature has been witnessed in the presence of the Council's officer; and
4. reference is made to the resolution [including its date] authorising such execution.

#### **4.27 Resignation of Councillor**

Subject to compliance with political allocation of seats and prior attendance on relevant training, if a councillor stops being a member of the Council or resigns from a committee (such notification being required to be provided in advance and in writing or by email from the relevant member to his Group Leader or the Managing Director), the Leader of the relevant Political Group (or, in their absence, the Deputy Leader), may appoint a replacement committee member to fill the vacancy. Any such appointment or changes to committee membership will be reported to the next available Council meeting.

#### **4.28 Interpretation, Suspension and Amendment of Council Procedure Rules**

4.28.1 The ruling of the Chair of the relevant meeting as to the construction or application of any of these Council Procedure Rules or as to any proceedings of the Council, shall not be challenged at any meeting of the Council.

4.28.2 All of these Council Rules of Procedure except the right to require individual vote to be recorded or where such would be contrary to the law, may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting. Any motion to add to, vary or revoke the Council Rules of Procedure will, when proposed and seconded stand adjourned without discussion to the next ordinary meeting of the Council.

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## 8. Member Procedures

### (a) Teignbridge District Councillor Role Definition

**Responsible to:** Teignbridge District Council and the local community

**Role purpose:** To represent the views of the communities of the Teignbridge District within and outside the Council.

**Main Role:**

1. Collectively to be the ultimate policy-makers and carry out a number of strategic and corporate, decision-making functions;
2. Represent the community and bring their views into the Council's decision-making processes, and become an advocate of and for your community;
3. Consider different interests within your Ward and represent the Ward as a whole.
4. To represent the interests of the district as a whole by contributing to the strategic representation and decision-making that affects Teignbridge;
5. Contribute to the good governance of Teignbridge and actively encourage community participation and citizen involvement in decision-making. Local people can expect to be informed about:
  - a. services in their area;
  - b. decisions that affect them;
  - c. the reasons why decisions are taken by the Council;
  - d. the rights of constituents of Teignbridge;
  - e. how decisions are made and what access is available to the public.
6. Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
7. Be available to represent the Council on outside bodies; and
8. ~~Every Councillor~~ will have the opportunity to take part in Overview and Scrutiny Committees reviews if members of the group feel their specialist experience would positively contribute to the review- even if they are not an Overview and Scrutiny Member. serve on either the Executive or a scrutiny committee. Part of the process is to undertake reviews and C  
 ouncilors will be expected to participate fully in reviews they are selected to be involved in. these.
9. Note that the main Council bodies are set out in Section 3 of the Constitution and comprise:
  - a. Executive;
  - b. Scrutiny Committees; and
  - c. Regulatory Committees.
10. Maintain the highest standards of conduct and ethics.

## **Role Definition for Leader of the Council**

### **Primary Role**

To have overall responsibility for the Vision and Corporate Objectives of the Council and for ensuring their achievement.

To be the principal political spokesperson for the Council and have overall responsibility for representing its views to the public and all organisations with whom the Council has contact.

To provide community leadership.

### **Main Responsibilities**

Lead the work of the Executive, its programmes and priorities.

Represent the Executive, as appropriate, to the Overview and Scrutiny Committees. To act in the absence of any Executive Member.

As the principal political spokesperson for the Council, to effectively communicate with appropriate media, organisations, etc. the policies of the Executive and Council.

To have overall responsibility for the development, implementation, monitoring and review of the Council's Corporate Objectives.

To have political responsibility for effective corporate governance of the Council.

Other responsibilities will also include oversight of:-

Representing the Council on matters of corporate and strategic policy to Government, other authorities, agencies and organisations relevant to the Council's business.

Regular liaison with the Managing Director, Senior Leadership Team, Business Leads and other relevant officers to provide informal policy guidance and support.

Regular liaison with other Group Leaders.

Monitoring and managing the performance of individual Executive Members assist with the identification of training and development needs of Executive Members and other Members.

Undertaking periodic reviews of portfolios and their allocation to Members of the Executive

The above activities are in addition to the responsibilities set out in the Councillor, Group Leader and Executive Member Role Descriptions.



## **Role Definition for the Deputy Leader of the Council**

### **Primary Role**

To carry out the responsibilities of the Leader in their absence. To assist the Leader in their duties.

To be a Member of the Executive with particular oversight of a Portfolio.

### **Main responsibilities**

Carry out those responsibilities assigned to the Leader in their absence.

Participate in the decision-making process on matters within the Executive remit in accordance with Council policy.

Adopt corporate responsibility for all such decisions.

Close liaison with the Senior Leadership Team, Business Leads and relevant officers responsible for the activities within the Portfolio and to provide informal policy guidance and support.

Work closely with the other Members who will support them with the Portfolio. Particular responsibilities will also include:-

- Presentation of reports to the Executive
- Attendance at Overview and Scrutiny Committees
- Development of a personal training Plan, and its implementation.
- Attendance at outside bodies to represent the Council and the Executive's position where appropriate

Regular liaison with other Group Leads on portfolio issues.

The above activities are in addition to the responsibilities set out in the Councillor and Executive Member Role Descriptions.

## **Role Definition for Executive Members**

### **Primary Role**

To be a Member of the Executive with particular responsibility for a Portfolio to be decided by the Leader of the Council.

### **Main Responsibilities**

Participate in the decision-making process on matters within the Executive's remit in accordance with Council policy.

Adopt corporate responsibility for all such decisions.

Close liaison with the relevant Director and/or Business Leads and relevant officers responsible for the activities within the Portfolio.

Work closely with the other Members who will support them with the Portfolio. Responsibilities will also include:-

- Presentation of reports to the Executive
- Attendance at Overview and Scrutiny Committees
- Development of a personal training Plan, and its implementation.
- Attendance at outside bodies to represent the Council and the Executive's position where appropriate.

Regular liaison with the Directors and/or Business Leads to provide informal policy guidance and support.

Regular liaison with other Group Leads on portfolio issues.

The above activities are in addition to the responsibilities set out in the Councillor Role Description.

## **Role Definition of the Chair of Council**

### **Primary Role**

To be the Civic Head of the District Council. To chair Council Meetings.

### **Main Responsibilities**

To represent the Council in the District and elsewhere on occasions where a civic representative is invited or otherwise required.

To initiate activities designed to recognise and encourage civic awareness in the community.

To attend briefings for Council meetings and to be proactive in making proposals for the effective conduct of the meeting.

To chair meetings of the Council ensuring among other things that all points of view have a fair opportunity to be heard, that Procedure Rules are applied and observed, with fairness and impartiality and that debate is guided towards clear and relevant decisions.

To promote good relationships between councillors, between political groups and between councillors and officers.

To ensure that the Civic hospitality budget is spent prudently and to the best advantage of the whole District.

To ensure that the Vice-Chair is kept informed of all relevant civic matters and has a useful civic role during their period of office.

The above activities are in addition to the responsibilities set out in the Councillor Role Description.

## **Role Definition of the Vice-Chair of Council**

### **Primary Role**

To support the Chair of the Council in their role and in their absence.

To chair Council Meetings in the absence of the Chair of Council.

### **Duties and Responsibilities**

To represent the Council in the District and elsewhere on occasions where a civic representative is invited or otherwise required.

To participate in activities initiated by the Chair designed to recognise and encourage civic awareness in the community.

To attend briefings for the Council meetings and to be proactive in making proposals for the effective conduct of the meeting.

To promote good relationships between councillors, between political groups and between councillors and officers.

The above activities are in addition to the responsibilities set out in the Councillor Role Description.

## **Role Definition of Group Leaders**

### **Primary Role**

To provide clear political leadership for the Group represented.

### **Main Responsibilities**

When in Opposition, to provide credible checks and balances, challenges and alternatives to the ruling Group.

To canvass a range of views within the Group in the formulation of policy.

To integrate and represent the Group policy at a local level.

To co-operate with other Groups where appropriate, particularly in matters of a non-party political nature.

To chair and/or attend meetings where appointed to a representative role within the Council.

To liaise with other local and regional representatives of the party if appropriate.

To monitor the performance of the Council against its budget, policy and performance plan.

To represent the views of their Group in relation to any matter on which Officers seek consultation and guidance.

To provide effective leadership and management of and communications within their own Group.

To ensure that members of their Group comply with local and national Codes of Conduct and protocols governing Member conduct and behaviour and, where necessary, to deal with any breaches of these codes or protocols.

If appropriate, to 'shadow' one or more service of corporate area of the District Council's activity.

If appropriate, to appoint members of their Group to 'shadow' particular service or corporate areas of the Council's activity.

The above activities are in addition to the responsibilities set out in the Councillor Role Description.

## **Role of the Chair of Committees**

Note – this role definition applies equally to all Chair of meetings, ie the Council, the Executive, all Scrutiny Committees, Planning Committee, Licensing and Regulatory Committee, Audit and Governance Committee.

### **Primary Role**

Preside over meetings ensuring proper order in the way in which business is conducted.

To attend briefings for committee meetings and to be proactive in making proposals for the effective conduct of the meeting.

Inform self of the intended business and objectives of meetings. Ensure decisions taken are in the remit of the Committee. Determine that meetings are properly constituted and quorate.

Decide points of order, whether proposed motions and amendments are in order, taking advice, as appropriate, from the Managing Director, Senior Leadership Team, Monitoring Officer or their representatives and the Democratic Services Team.

Adjourn meetings if appropriate.

Close meetings at the conclusion of business.

Manage public participation at meetings in accordance with the Council's published scheme in this regard.

The above activities are in addition to the responsibilities set out in the Councillor Role Description.

## **Role of the Deputy Chair of Committees**

Note – this role definition applies equally to all Deputy Chair of meetings, ie the Council, the Executive, all Scrutiny Committees, Planning Committee, Licensing and Regulatory Committee, Audit and Governance Committee.

### **Primary Role**

To support the Chair of the Committee in their role and in their absence.

To chair the Committee in the absence of the Chair.

To attend briefings for the Committee meetings and to be proactive in making proposals for the effective conduct of the meeting.

The above activities are in addition to the responsibilities set out in the Councillor Role Description.

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## 8. Member Procedures (e) Guidance for Planning

### Introduction: The Need for Guidance

This Guidance has been written to inform all parties of Teignbridge District Council's standards in its operation of the town and country planning system within the district.

The Guidance applies to all Teignbridge District Councillors and staff involved in operating the planning system within Teignbridge. It is not restricted to the Council's planning officers and members of the Planning Committee, but applies also to meetings of the full Council when taking planning decisions.

The successful operation of the planning system in Teignbridge District depends upon the Council always acting in a way which is clearly seen to be fair and impartial. This relies upon a shared understanding of the respective roles of Councillors and officers, and upon trust between them. The following quotation from the Local Government Association serves to illustrate the point:

*"The role of an elected member on a planning committee involves balancing representing the needs and interests of individual constituents and the community, with the need to maintain an ethic of impartial decision-making on what can be highly controversial proposals. It is this dual role which, can give rise to great tensions".* (Source: Probity in Planning, Local Government Association, 2002).

The Local Government Association has advised local planning authorities, such as Teignbridge District Council, to set out clearly their practices and procedures on handling planning matters in a local cCode of cConduct.

Councillors and staff should read this Code-Guidance thoroughly and to put it into practice consistently. Failure to do so without good reason could be taken into account in investigating allegations of breaches of the Ceode of Ceonduct adopted following the requirements of the Local Government Act 2000 or maladministration.

**This Guidance does not form part of the Code of Conduct but is complementary to it.**

It is intended to review the Guidance regularly to keep it up-to-date and relevant. If there are any points which are unclear or which need review, please contact the Council's Solicitor (the Council's Monitoring Officer) or the Deputy Monitoring Officer as soon as possible. They will be pleased to help you.

### Composition of the Planning Committee

The Planning Committee should be composed of thirteen Members.

## **1. GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS**

- 1.1 Councillors and officers have different, but complementary, roles. Both serve the public but Councillors are responsible to the electorate, while officers are responsible to the Council as a whole. A successful relationship between Councillors and officers can only be based upon mutual trust and understanding of each other's position. This relationship, and the trust which underpins it, must never be abused or compromised.
- 1.2 Legislation emphasises the overriding requirement that the public are entitled to expect the highest standards of conduct and probity by all persons holding public office. There are a number of statutory provisions and codes setting standards which must be followed if the public perception of the integrity of public service, particularly town and country planning, is to be maintained and improved.
- 1.3 While this Guidance deals primarily with planning applications, its principles apply with equal vigour to consideration of Structure Plans, Local Plans, Development Briefs, enforcement cases and all other planning matters. An overriding principle is that when local authorities are dealing with planning matters, they should only take into account material planning considerations.
- 1.4 Section 54A of the Town and Country Planning Act 1990 established a plan-led system whereby all planning applications are determined by primary reference to the Development Plan. Thus, if the Development Plan is material to the application, then the statutory requirement is that the application should be determined in accordance with the Development Plan unless material considerations (which includes the National Planning Policy Framework) indicate otherwise.
- 1.5 Officers involved in the processing and determination of planning matters must also act in accordance with the Council's Procedure Rules, The Officer Code of Conduct and (for officers who are Chartered Town Planners) with the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct.
- 1.6 This Guidance supplements the provisions referred to above and provides further specific advice and guidance for Councillors and officers involved in planning matters. A key principle is that Councillors should represent their constituents as a body and vote in the interests of the District as a whole. Councillors should take account of all views expressed, they should not be biased towards any person, company, group or locality.
- 1.7 A further key principle is that local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that



opposition or support is based upon valid planning reasons which can be substantiated.

- 1.8 Councillors and officers should not accept gifts, nor should they accept hospitality. However, if a degree of hospitality is truly unavoidable, (e.g. receipt of tea, coffee or other light refreshments) Councillors and officers should exercise their discretion cautiously. Gifts with a value of over £50 have to be declared to the Monitoring Officer under the local Code of Conduct.
- 1.9 Officers must always act impartially and seek permission from the appropriate senior officer for any private work or interest which they wish to take up.
- 1.10 Training events will be provided for Councillors to assist them to carry out their planning roles.

## **2. DECLARATION AND REGISTRATION OF INTERESTS**

### **Councillors**

- 2.1 The rules concerning the declaration of interests is contained in the Code of Conduct. Councillors will need to make themselves familiar with the Code and understand the distinction between personal interests which must be declared but which do not lead to the councillor having to withdraw and prejudicial interests which require withdrawal.

### **Officers**

- 2.2 Where Council Officers have a pecuniary, or non-pecuniary interest, in a planning application or other planning matter, they should declare their interest in writing to the Service Manager – Development Management immediately. This written record will then be retained on the relevant file.
- 2.3 An officer declaring such as interest should subsequently play no part in processing an application, or considering the planning matter, nor in any decision making on it.
- 2.4 In determining whether an interest should be declared, officers should use the same tests as Councillors. Examples of interest which should be declared are relatives or friends submitting applications; belonging to a church, club or other social group who has submitted an application; or living in proximity to a site which is at issue.

## **3. DEVELOPMENT APPLICATIONS SUBMITTED BY COUNCILLORS, OFFICERS AND THE COUNCIL**

- 3.1 Serving Councillors and officers should never act as agents for individuals (including a company, group or body) pursuing a planning matter. This includes not only pursuing development proposals, but also works under related legislation such as works to protected trees. If Councillors or officers submit their own proposals to the Council, they should take no part in processing the

application, nor take part in the decision making. The Council's Monitoring Officer should be informed of all such proposals as soon as they are submitted.

- 3.2 Proposals submitted by Councillors and officers should be reported to the Planning Committee as written agenda items and not dealt with by officers under delegated powers.
- 3.3 Proposals for the Council's own development (or development involving the Council and another party) should be treated strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted. It is important that the Council is seen to be treating all such applications on an equal footing with all other applications, as well as actually doing so.

#### **4. LOBBYING OF AND BY COUNCILLORS, AND ATTENDANCE AT PUBLIC MEETINGS BY OFFICERS AND COUNCILLORS**

- 4.1 When Councillors undertake their constituency roles, it is inevitable that they will be subject to lobbying by interested parties and the public on planning matters and specific planning applications. When Councillors are lobbied, they need to exercise great care to maintain the Council's, and their own integrity, and to uphold the public perception of the town and country planning process.
- 4.2 Councillors who find themselves being lobbied (either in person, over the telephone, or by post, fax or e-mail) should take active steps to explain that, whilst they can listen to what is said, it would prejudice their impartiality if they expressed a conclusive point of view or any fixed intention to vote one way or another.
- 4.3 Councillors involved in the determination of planning matters should listen to all points of view about planning proposals and are advised to refer persons who require planning or procedural advice to planning officers. Councillors should not indicate conclusive support or opposition to a proposal, or declare their voting intention before the meeting at which a decision is to be taken. Nor should Councillors advise other parties that permission will be granted or refused for a particular development or that land will, or will not, be allocated for development in a Local Plan. To do so without all relevant information and views, would be unfair, prejudicial and may amount to maladministration.
- 4.4 Taking account of the need to make decisions impartially, Councillors must weigh up all the material considerations reported at each Committee meeting. They should not be biased towards any person, company, group or locality.
- 4.5 If planning applications are referred by a Planning Committee to Council (or meetings of different organisations attended by Councillors), each consideration will require the Councillor to weigh up, afresh, all the reported material factors before reaching a decision at that particular meeting.
- 4.6 By law, the District Council has to seek comments from the Town/Parish Councils on planning applications and other planning matters so that their

comments can be taken into account when the District Council makes planning decisions. Some District Councillors are also Town/Parish Councillors and they take part in Town/Parish Council debates about planning applications and other planning matters. Merely taking part in Town/Parish Council debates on planning matters does not automatically debar District Councillors from decision-taking at the District Council. However, with few exceptions Town/Parish Councils do not have professional planning advice or complete information on the application and other planning matters when they make their recommendations to the District Council. Therefore, District Councillors who are also Town/Parish Councillors should be careful not to state that they have reached a conclusive decision when they consider planning issues at their Town/Parish Council meeting. Nor should they declare to the Town/Parish Council what their future voting intention will be when the matter is considered at the District Council.

- 4.7 While Councillors involved in making decisions on planning applications will begin to form a view as more information and options become available, a decision can only be taken at the Planning Committee, and Council when all available information is to hand and has been considered.
- 4.8 Any relevant papers (including letters, photographs, drawings, petitions etc) passed only to Councillors by applicants or objectors prior to a committee meeting should be notified to officers and reported to the Committee.
- 4.9 Individual Councillors should reach their own conclusions on an application or other planning matter rather than follow the lead of another Councillor. In this regard, any political group meetings prior to Committee meetings should not be used to decide how Councillors should vote. Decisions can only be taken after full consideration of the officers' report and information and discussion at the Committee meeting.
- 4.10 A Planning Committee member who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the councillor responds to lobbying by deciding to go public in support of a particular outcome - or even campaign actively for it - it will be very difficult for that councillor to argue convincingly when the Committee comes to take its decision that they have carefully weighed the evidence and arguments presented at Committee. A Councillor should avoid organising support for or against a planning application if they intend to participate in its determination at Committee. However, it should be possible for a Councillor to say that they will make the views of the public known at the Committee whilst themselves waiting until the Committee and hearing all the evidence before making a final decision upon how to vote.
- 4.11 Councillors should not lobby other Councillors on proposals in a way that could lead to their failing to make an impartial judgement on the planning merits of these cases when making decisions at Council Committees. Nor should Councillors put undue pressure on officers for a particular recommendation nor

do anything which compromises, or is likely to compromise the impartiality of officers.

- 4.12 Officers who are wholly or partly involved in the processing or determination of planning matters should not attend public meetings in connection with pre-application development proposals or submitted planning applications unless their attendance has been agreed by their Director. To do so could lead to allegations of prejudice or bias to a particular point of view. If put in such a position, officers should avoid prejudicing the Committee's decision.
- 4.13 When attending public meetings, Councillors should take great care to maintain their impartial role, listen to all the points of view expressed by the speakers and public and not state a conclusive decision on any pre-application proposals and submitted planning applications.
- 4.14 If Councillors consider that they have been exposed to undue or excessive lobbying or approaches, these should be reported to the Monitoring Officer.

## **5. DISCUSSIONS WITH APPLICANTS**

- 5.1 It is generally recognised that discussions between potential applicants or applicants and the Council prior to the submission of an application can be of considerable benefit to both parties. However these should be undertaken as part of the pre application process for which a fee is payable. Discussions can take place for a variety of reasons, for example to establish whether an application can be improved in design, or to overcome planning objections or to meet relevant neighbour concerns. Such discussions will normally take place at the District Council offices or via video conferencing.
- 5.2 Councillors involved in any discussions should maintain an independent position and avoid committing themselves to either supporting or opposing the application at Committee. If Councillors feel that they are being put under pressure to support or oppose an application they should suggest to the applicant/objector that they put their views to the planning officer. Planning officers should always make clear at the outset of discussions that they cannot bind the Council to make a particular decision, and that any views expressed are their provisional professional opinions only.
- 5.3 Advice given by planning officers will aim to be consistent and based upon the Development Plan (Structure and Local Plan) and other material considerations (which includes the National Planning Policy Framework). Senior officers will make every effort to ensure that there are no significant differences of interpretation of planning policies between planning officers.
- 5.4 Planning officers will ensure that their advice, and reports, in the sense that they should not favour any particular applicant or objector are impartial. This is because a consequent report must not be seen as advocacy for a particular point of view. A written note should be made of pre-application discussions and important telephone conversations. The involvement of Councillors in such

discussions will be noted by officers as a written file record. A follow-up letter should be sent, particularly when material has been left with the Council by the applicant or agent for comment.

- 5.5 Councillors who also serve on Town & Parish Councils should make clear their separate roles in each Council regarding Teignbridge District planning policies. The councillor and other interested parties should be clear at all times when the Councillors are acting as a Town or Parish Councillor, and when they are acting in their role as a District Councillor.

## **6. REPORTS BY OFFICERS TO COMMITTEES**

- 6.1 Many planning applications are determined by the Service Manager – Development Management. These are the smaller and less controversial applications.
- 6.2 Where decisions on applications fall to be made by the Planning Committee or Council, they will be the subject of full written reports, except where the applications are to be determined by the Committee simply because the application is from a District Council Member, a member of staff, the District Council, the County Council or falls within the Dartmoor National Park.
- 6.3 Reports on planning matters aim to be accurate and will contain a description of the development proposed in the application (including dimensions and areas). They will refer to the provisions of the Development Plan, the National Planning Policy Framework and all other material planning considerations including a full description of the site, any relevant planning history, and the substance of objections and other views received.
- 6.4 All reports requiring a decision will have a written recommendation. Oral reporting (other than to update an existing report) will only be used on rare occasions and carefully minuted when this does occur. All reports will contain a technical appraisal which clearly justifies the stated recommendation. All reasons for refusal and conditions to be attached to permissions must be clear and unambiguous.
- 6.5 Any additional information which is material to a planning decision, and which is received after publication of agendas, will be reported to the meeting.

## **7. PUBLIC SPEAKING AT PLANNING COMMITTEES**

- 7.1 Members of the public who wish to speak at a Planning Committee in support of or against a planning application may do so. Only planning related matters can be considered (e.g. access, road safety, design, effect on appearance of area etc.) Comments on non-planning related matters cannot be considered (e.g. loss of property value, loss of view, land ownership issues etc.)
- 7.2 Subject to the exception in the paragraph below, Members can only speak at a Planning Committee (in support of or against a planning application) if they are the Ward member for that particular application and/or they are a member of

the Planning Committee. If a Ward member who is also a member of the Planning Committee does speak, they must not then take part in the voting for that planning application. The Ward member is permitted to speak in order to represent the views of their constituents - not the personal views of the Ward member as those view may not be consistent with the role of a Committee Member. By not participating in the voting, the Ward member preserves all appearance of impartiality and can freely voice the views of their constituents.

7.3 The exception to the requirement that in order to speak at a Planning Committee a Ward member must be both the Ward member for the planning application being determined and a member of the Planning Committee is where a Ward member who is neither the Ward member for the application nor a member of the Planning Committee, is the Ward member for an adjoining ward. In such circumstances, the Ward member for the adjoining ward will be permitted to speak provided they have received representations in writing from one or more constituents of that adjoining ward concerning the application. The Ward member will then be permitted to speak at the Planning Committee in order to represent the views of the constituents of the adjoining ward who have made written representations to the Ward member of the adjoining ward.

7.4 Member may not address the Planning Committee in any other circumstances unless they do so as either an objector or supporter.

## **8 THE DECISION MAKING PROCESS AND DECISIONS CONTRARY TO OFFICER RECOMMENDATIONS AND/OR THE DEVELOPMENT PLAN**

87.1 The law requires that, where the Development Plan is relevant, planning decisions should be made in accordance with it unless other material considerations (including the National Planning Policy Framework) indicate otherwise (Section 54A of the Town and Country Planning Act 1990).

78.2 The relevant Development Plan, and other material considerations (including the National Planning Policy Framework), will be identified in officers' reports. Material considerations will vary from case to case. In arriving at a decision, it is a matter of judgement for the Planning Committee (or Council) as to the weight to be attached to the various material considerations.

78.3 In discussing, and determining a planning application or other planning matter, Councillors should confine themselves to the planning merits of the case. The reasons for making a final decision should be clear, convincing and supported by material considerations and the planning merits.

78.4 Members should consider the advice of the officers but ultimately they are free to vote as they choose. If Councillors wish to determine an application contrary to officer advice, or to impose additional conditions to a permission, an officer should explain the implications of such actiona decision prior to the vote. The Councillors' grounds-reasons for any contrary determination, or for wishing to



impose additional conditions, must be clearly stated at the time the propositions are made ~~and votes taken at the meeting prior to the vote and shall be minuted.~~ The personal circumstances of an applicant will rarely provide such grounds.

~~8.5~~ The Planning Practice Guidance advises that the most common cause for costs being awarded against Local Planning Authorities is where there are unsubstantiated reasons for refusal. Vague, generalised or inaccurate assertions about a proposals' impact, which are unsupported by an objective analysis, are more likely to result in a costs award. The Chair will, if necessary, adjourn the meeting for a few minutes to allow Officers to advise of any other relevant planning issues to assist the Councillors with their reasons for a contrary determination. Alternatively,- the senior planning officer supporting the Chair at the Planning Committee meeting may formally ask the Planning Committee to defer the vote until the next Planning Committee meeting in order to take advice and compile the planning reasons for any contrary determination if this cannot be done adequately at the time the propositions are made and this should advice will be formally minuted. -

~~78.65~~ The Planning Practice Guidance makes clear that local opposition or support for a proposal is not, in itself, a ground for refusing or granting planning permission unless it is founded upon valid material planning reasons. The Council will be at risk of costs for unsubstantiated reasons for refusal that rely almost exclusively on local opposition for their justification. —

~~8.76~~ If a resolution is passed which is contrary to a recommendation of the Service Business Manager – Development Management (whether for approval or refusal) a Minute of the Committee's reasons will be made and a copy placed on the application file.

~~8.87~~ In the event ~~that~~ a Member of the Planning Committee moves a motion to grant an application contrary to Officer's recommendation, the Councillor moving the motion MUST provide i) Full conditions and relevant informatives; ii) Full statement of reasons for approval (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015; iii) Relevant Development Plan policies and proposals. If the Councillor moving the motion does not meet these requirements, the motion shall not be deemed to have been properly made and cannot be seconded.

~~8.98.~~ In the event a Member of the Planning Committee moves a motion to *refuse* an application ~~contract~~ to Officer's recommendation, the Councillor moving the motion MUST provide: i) Full statement of reasons for refusal which must include a statement as to demonstrable harm caused ii) Relevant Local Plan policies which the application is in conflict with. If the Councillor moving the motion does not meet these requirements, the motion shall not be deemed to have been properly made and cannot be seconded.

~~78.1076~~ If the report of the Service—Business Manager – Development Management recommends approval of a departure from the Development Plan,

the full justification for this recommended departure should be included in the report.

~~78.1187~~ Senior planning officers (and legal officers as necessary) should attend meetings of the Planning Committee to ensure that procedures are properly followed and planning issues properly addressed.

~~78.1298~~ It is important that Councillors who determine planning applications do so only after having considered all the material planning considerations. They must take all relevant matters into account and they must disregard irrelevant considerations. It is important that they are seen to do this. For this reason, it is important that Councillors only participate in the debate and vote on a planning application if they have been present throughout the whole of the officers' presentation and the subsequent committee debate. Councillors who arrive at a meeting part-way through consideration of an application or who are absent from the meeting for any part of that consideration may not be aware of all the relevant considerations. In any event, their participation can be seen to be unfair – it could amount to maladministration as well as giving rise to a legal challenge that the decision-making process was flawed.

## **98. SITE VISITS BY COUNCILLORS**

### **Site Inspection Team Who can attend**

9.1 Each site visit shall be attended by the Site Inspection Team chosen for that particular site visit and for specific planning purposes . The Site Inspection Team shall comprise of only three Members of the Planning Committee chosen by the Committee *ad hoc* on a roll-call basis. The Site Inspection Team will be accompanied by the planning officer.

### **The need for committee site visits**

~~8.19.2~~ It is important for the District Council's Planning Committee to have a clear rationale for undertaking organised site visits in connection with planning applications and that any visits are conducted properly and consistently.

~~8.29.3~~ The purpose of a site visit is for the Coommittee Councillors to gain knowledge a better understanding of specific –issues arising from the development proposal, the application site and its surroundings.

9.3 -A decision by a Planning Committee to carry out a site inspection should ~~normally~~ only be taken where the impact of the proposed development is difficult to assess from the report, –plans and/or any supporting information submitted by the applicant, or additional material provided by officers.

~~8.39.4~~ Site visits cause delay and additional costs, and should only be carried out where the Committee Councillors believe a site visit is necessary and the purpose is clear and substantial.

9.5 Councillors can ask the Business Manager – Development Management for additional illustrative material to be presented in excess of the Officer's report



at least three working days before the Planning Committee meeting or during the site visit clearly specifying what additional material is needed and why.

- 9.65 Site visits should only occur when a Councillor has submitted a written request prior to the Planning Committee at which the relevant application is to be considered and explained why a site visit is considered to be necessary. A record of these reasons should be kept. If a request for a site visit is proposed at the Planning Committee meeting (without a prior written request), the Councillor proposing the site visit must clearly state the explicit reason why this was not apparent prior to the meeting, explain why it is now deemed to be necessary and in such a case, the deferment of the application pending the site visit must be agreed by a majority of the Planning Committee. A written record of these reasons should be provided by the proposing Councillor to the Committee administrator immediately following the meeting.

### **Procedure on Site**

- ~~8.49.765- Every site visit should be attended by only three Members of the Planning Committee. These will be chosen *ad hoc* on a roll-call basis. The three Members of the Planning Committee will be accompanied by the planning officer and normally the Parish or Town Councillor. Any consultee whose attendance has been specifically requested by the Planning Committee (e.g. the County Highway Authority or an Environmental Health Officer) may also attend to assist their understanding of the proposals.~~

- ~~8.5~~ A detailed explanation of the proposals, and a summary of the officers' report and recommendations, will be made by the planning officer. The three Site Inspection Team Councillors will then be given the opportunity to ask questions of the Planning Officer and to view the site and surroundings from all relevant vantage points.

- ~~8.5 Site visits will normally involve District, Parish or Town Councillors and officers only, except for any consultee whose attendance has been specifically requested by the Planning Committee (e.g. the County Highway Authority or an Environmental Health Officer) to assist their understanding of the proposals.~~

- ~~9.8768.56 Applicants/agents, or objectors and members of the public are excluded from will not be invited to attend site visits. Chair of Parish Meetings may attend site visits provided they have signed up to the Code of Conduct for Members issued under the Local Government Act 2000. Councillors should keep together during site visits and not allow themselves to be addressed separately by applicants or objectors.~~

- ~~9.9878.67~~ No decisions are made at site visits although recommendations may be made to the Committee. ~~The Committee administrator will prepare a written note of the key planning issues and information obtained from the site visit, to be reported to the subsequent meeting of the Planning Committee. A Member of the site inspection team should be elected to report back to the Planning Committee with their findings (as agreed) when the application is next being considered~~

~~The recommendation will remain confidential until the committee report is prepared.~~

~~9.10988.78 Where a site meeting is attended by a Parish or Town Councillor they will be invited to advise on the views of the Parish or Town Council rather than their views as an individual.~~

~~9.11098.89 The Service Manager – Development Management and the Service Lead – Legal and Democratic Services will ensure that all correspondence in relation to site visits clearly identifies the purpose of a site inspection together with the format and conduct of the inspection, so that applicants/agents and interested parties are aware of it.~~

### **Informal Site Visits**

~~9.12108.190~~ There are advantages in Councillors making their own individual site visits to gain knowledge of the development proposal, the application site and its surroundings. In doing so, Councillors should observe sites from public vantage points only (highways, rights of way or public open space) and should not enter onto private land without permission.

~~9.13218.101~~ Whilst on individual site visits, Councillors should not as far as possible avoid engage~~ing~~ in discussion with any person regarding the site visit or application. ~~applicants, objectors or other interested parties.~~

This can lead to accusations of partiality if the views of one party only are heard.

~~9.14328.112~~ Where application sites are not visible without entering onto private land – for example, rear extensions or country houses in larger plots – officers will make an additional effort to provide appropriate visual information at Committee.

## **910. REVIEW OF PLANNING DECISIONS**

~~910.1~~ Arrangements will be made for Councillors to visit a sample of implemented planning permissions annually, so that a regular review of the quality of planning decisions can be undertaken. This will include examples from a broad range of categories such as major and minor development, permitted departures, upheld appeals etc.

~~910.2 The outcome of this review will be reported to the Planning Committee and to the Overview and Scrutiny Committee and may lead to identification of possible amendments to existing policies or practice.~~

## **101. COMPLAINTS AND RECORD KEEPING**

~~101.1~~ The Council has a complaints procedure, which can be used by any party to the planning process (applicants, objectors or others) to complain about the way in which a matter has been handled (the complaints procedure is not intended to reopen the planning decision). Copies of a leaflet on the complaints procedure are available on request. and on the councils website.

- 101.2 In order to ensure that planning procedures are undertaken properly and that any complaints can be fully investigated, record keeping will be complete and accurate. Every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings, significant telephone conversations and any declarations of interest by Councillors.
- 101.3 The same principles of good record keeping will be observed in relation to all enforcement and Development Plan matters. Monitoring of record keeping will be undertaken regularly by the senior planning staff.
- 101.4 Where a planning application is dealt with under the delegated procedure a complete record will be kept of the planning considerations taken into account in determining the application for 5 years after the decision.

## **142. CONTRAVENTION OF THIS GUIDANCE**

- 142.1 Where there is any breach of this ~~Protocol~~Guidance by a Councillor the matter should be referred to the Monitoring Officer who may take such action as they considered appropriate~~will report the matter to the Standards Committee.~~
- 142.2 Where any breach of this Code ~~Protocol~~Guidance constitutes misconduct by an officer, then it is to be dealt with in accordance with the Council's disciplinary procedure.

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## Constitution 10(b)

### COUNCILLOR ACCESS TO DOCUMENTS AND INFORMATION

- 6.1 ~~Members are free to approach any department for such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a department's activities to a request for specific information on behalf of the constituent. Such approaches should normally be directed to the manager of the particular service concerned. However, if a planning matter, Councillors are encouraged to contact the case officer. Members have a right of access to such meetings, documents and information of the Council as are necessary for the proper discharge of their functions, and in accordance with the law. This applies when:~~
- ~~• representing their constituents, and~~
  - ~~• carrying out official duties such as committee members, lead members, or representing the Council on outside bodies~~
- 6.2 The legal rights of members to inspect Council documents are covered partly by statute and partly by common law. The statutory framework includes the Local Government Act, 1972, ~~and the Licensing Act 2003 (Hearings) Regulations 2005,~~ the Data Protection Act ~~2018 and UK GDPR,s, 1985 and 1998,~~ the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
- 6.3 Members have a statutory right to inspect ~~any~~ council documents ~~s~~ which contains material relating to any business which is to be transacted at the Council, the executive, a committee or sub-committee meeting. This right does not apply to documents which ~~disclose confidential and exempt information, appear on the exempt agenda for meetings. The Exempt items are include~~ those which contain ~~exempt~~ information relating to:
- ~~• individuals, such as~~ employees, occupiers of Council property, applicants for grants and other services,
  - ~~• Information which is likely to reveal the identity of an individual~~
  - ~~• contract and industrial relations negotiations,~~
  - ~~• commercially sensitive information,~~
  - ~~• advice from Counsel~~Instructions to and advice from Counsel, and any information subject to legal professional privilege in connection with legal proceedings by or against the Council, or the determination of any matter affecting the Council
  - ~~• and criminal investigation. Information relating to any actions taken or to be taken in connection with the prevention, investigation or prosecution of crime~~
  - ~~• information which would reveal that the Council proposes:~~
    - ~~a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or~~
    - ~~a)b) to make an order or direction under any enactment.~~

- 6.4 The common law right of members is much broader and is based on the principle that any member has a prima facie right to inspect Council documents so far as their access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the Council. This principle is commonly referred to as the “need to know” principle.
- 6.5 The exercise of ~~this~~ common law right depends, therefore, upon the member’s ability to demonstrate that they have the necessary “need to know”. A member has no right to a “roving commission” ~~to go and to~~ examine documents. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”. The ~~question request~~ will initially be determined by the manager of the service involved . Where a member disagrees with a service’s refusal to provide information, the Monitoring Officer will determine if it shall be released, with the advice from the solicitor. In the event of a dispute, the question will be determined by the standards committee.
- 6.6 ~~In some circumstances, e.g. a member wishing to inspect documents relating to the functions of that committee, a members “need to know” will be presumed. In other circumstances e.g. a member wishing to inspect documents which contain personal information about third parties, a member will be expected to justify the request in specific terms.~~ When dealing with casework for their constituents, the member will seek written consent from the individual to access personal data held about them by the Council. Members, as data controllers, will be responsible for ensuring they have obtained the necessary consent, and will be personally responsible for the safe keeping on the data once provided.
- 6.7 Members have a duty not to make public any information which is confidential or exempt without the express consent of the Council, and a duty not to divulge to anyone, other than a fellow Councillor or Officer entitled to know it, any confidential or exempt information received from the Council. Information must be used only used for the legitimate purpose for which it is provided.