

# Governance, scrutiny and ethical matters at Teignbridge Council

## Discussion paper

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### About Centre for Governance and Scrutiny

The Centre for Governance and Scrutiny is an organisation with particular expertise in corporate governance in local government. We work closely with councils, and with the LGA, to provide support and advice to councils on their governance systems overall, on their constitutional arrangements, on relationships between members and officers and on the operation of systems for scrutiny, accountability and transparency.

Our work for Teignbridge has been funded by the Local Government Association.

## Introduction

This discussion paper is designed to assist members in discussing, and agreeing a way forward, on how to achieve more effective governance at Teignbridge Council.

The objectives of this work were to:

- Work with members to better understand relationships between members, the role of members in respect of the local community, and relationships between members and officers (including mutual officer/member roles and responsibilities). This will include consideration of values, behaviours and ethical issues;
- Use this understanding to review constitutional provisions relating to member and member/officer activity, with a particular focus on the overview and scrutiny function and the mechanics of debate and decision-making in committee, and on the ethical standards and conduct framework which underpins member/officer relationships;
- Produce an action plan for ensuring that the constitution is understood and acted on, and addressing uncertainty around the roles and responsibilities of individuals and groups of individuals, and in so doing making relevant suggestions for the council's ethical framework. This will involve support to the recently-agreed establishment of a Procedures Committee, to oversee such issues in future.

### Matters not considered

At this stage we are not presenting detailed findings on the role of members in respect of the local community. We had hoped to be able to explore with a larger group of members the way that their ward work, and the wider conversations they have with those active in the local community, influence and inform their wider work on the council. The disappointing level of engagement we had with councillors does not give us sufficient confidence to be able make clear findings in this area. The low level of member engagement means that we have had to be particularly carefully in avoiding the risk of extrapolating findings which rely predominantly or wholly on the views of councillors.

This review has not considered governance in respect of the planning system, and planning decision-making. Given the challenges that this review has identified it seems likely that the management of planning matters (strategically and operationally) may well require further review – particularly around councillor behaviours and member/officer relationships.

Finally, this review has not considered Strata governance.

## Method

CfGS carried out this work by way of interviews, a councillor survey and a review of documentary information, as follows.

Interviews	<p>With seven councillors and eight senior council officers</p> <p>All councillors were given the opportunity for an interview. Interviews were semi-structured, focusing on the objectives of CfGS’s work while providing interviewees with the opportunity to highlight their own priorities and issues.</p> <p>We sought to hold a larger workshop to gather opinion from a wider range of councillors (in particular on the subject of councillors’ roles in respect of the local community). However, it only proved possible to arrange such a workshop very late in the evidence gathering process, and then only with only four councillors.</p>
Survey	<p>10 councillors responded of a total 47.</p> <p>All councillors were sent notification of the survey on two occasions.</p>
Documentary information	<p>Limitations to evidence-gathering through interview and surveys (particularly with members) meant that we engaged in a more in-depth review of documentary information than would usually be the case.</p> <p>This included:</p> <ul style="list-style-type: none"> <li>• The Council’s Constitution, with a particular focus on; <ul style="list-style-type: none"> <li>○ Arrangements for making key decisions;</li> <li>○ Arrangements in place for delegation of decisions;</li> <li>○ The member and officer codes of conduct;</li> <li>○ Overview and scrutiny procedure rules and the rules of procedure of other bodies, including full Council;</li> <li>○ The procedure for the operation of hearings at Standards Committee.</li> </ul> </li> <li>• The most recent Annual Governance Statement;</li> <li>• Agendas and paper for a selection of recent meetings. This included detailed review of paperwork for the following: <ul style="list-style-type: none"> <li>○ Full Council: 23/11/20, 22/2/21, 4/5/21</li> <li>○ Executive: 3/11/20, 11/2/21, 6/4/21</li> <li>○ Audit Scrutiny: 26/8/20, 17/12/20, 24/3/21</li> <li>○ OSC1: 22/9/20, 22/12/20, 20/4/21</li> <li>○ OSC2: 10/11/20, 12/1/21, 9/3/21</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ Standards: 15/7/20, 22/7/20, 2/10/20, 9/11/20</li> <li>● Observation of webcasts of parts of the above meetings;</li> <li>● Overview and scrutiny committee work programmes;</li> <li>● The Forward Plan (as it existed at various points in 2020/21).</li> </ul>
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Format of this paper

This is a discussion paper; while it sets out possible areas in which actions might be considered, it invites councillors and officers to discuss those matters to decide what form interventions should take. In some areas we set out a strong recommendation to take specific action – in others we highlight options for improvement, inviting further debate.

This is intended to promote ownership of improvement at the council. This paper highlights shortcomings in the relationship between members, and between members and officers, at the council. The only way that these challenges can be meaningfully tackled is by members and officers recognising these shortcomings and coming together to overcome them. All councillors, and most officers at a senior level, have a specific stake and a responsibility to take a role in that activity.

The sequence of change

As councillors and officers come to develop plans for improvement as a result of this paper, they will need to consider how changes will need to be organised and sequenced. In our view steps to address shortcomings in relationships will need to be taken first. Changes to council structures, systems and processes can follow on from this. As we update this report in summer 2022, we note that the council is moving ahead with (necessary) constitution changes. We have ensured that as far as possible the suggested actions in this paper align with those changes.

**Note: Action taken since the review**

A draft of this report was initially put to the Council in late 2021. At this time action had already begun to address some of the issues identified in this report. This means that some of the evidence gathered earlier in 2021 should be presented in context of these improvements. As far as possible we have attempted to identify, in this draft (revised in September 2022), where we understand improvements are underway.

## 1. Summary

Councils' ability to effectively carry out their day to day business, as well as to confidently plan for the future, rests on the strength of their organisational culture.

Organisational culture is about many things, but in the context of the running of a local authority:

- There needs to be mutual respect between councillors – within the context of robust political debate and disagreement;
- Councillors need to understand and respect officers as professionals – particular where officers have a responsibility for the governance framework;
- Councillors in particular need to understand their roles and responsibilities, and how they are distinct from the roles of officers. In the most basic sense, this is that councillors lead on strategy and overall direction, while officers lead on delivery and implementation;
- A strong governance framework – centred on the constitution – is needed to embed positive behaviours, and to provide clarity on roles, responsibilities and relationships.

In a local authority with strong and effective governance systems, members and officers recognise the presence of individual and collective responsibility for action on the above matters. In such an environment, good governance is not just taken to be the responsibility of the Monitoring Officer, or leading councillors, but all councillors and officers.

In our view at Teignbridge there have been weaknesses around organisational culture – in particular, the relationships between members, and the relationships between members and officers. Specifically, there has been uncertainty around who leads on “strategic” and “operational” matters. Since this review was undertaken we understand that progress has been made in bringing clarity to these issues.

There is never a rigid divide between what is covered by the two terms but the definitions below provide a general summary.

“Strategic” matters are those which relate to the long term direction of the authority – plans and sets of priorities that reflect the council’s overall focus, and the central aims of the council’s administration. These priorities should be set by councillors and will usually derive from an election manifesto or similar programme. Executive councillors and officers will usually work together to refine strategic priorities, and non-executive councillors will hold the executive to account (through scrutiny, and other political methods) through focus on those priorities and that strategic focus.

“Operational” matters are those that relate to the implementation of strategy – usually led by officers with a degree of oversight from both executive and non-executive officers. Officers will usually work within the parameters set by strategic decisions and exercise their own judgement on implementation. For high profile or contentious matters – and those matters where services are

failing, or where big changes are happening – more sustained member oversight will usually be necessary but for the most part, there will be little day to day councillor involvement in operational decision-making or service delivery.

Strong organisational culture – and strong governance – rest on this clarity of roles between members and between members and officers. It also relies on realistic member expectations about where and how they can expect to work with officers to deliver priorities which they have set, and knowing how and where to step back from needing a great deal of operational information.

In turn, this rests on councillors' ability to set a clear strategic direction for the authority – priorities to guide the council and its work over the course of an electoral cycle. This relates closely to the ability of the councillor leadership, through Executive, to engage collectively on priorities and performance, and to use that collective view to have the confidence to pursue its political priorities.

#### Overview of the council's strategic direction

Teignbridge's councillor leadership has stated that it has priorities in three areas – housing, climate change, and jobs.

Meanwhile the Council has a 2020-30 plan which sets out 8 main objectives for the authority in the next decade. We were told that all councillors had an opportunity to be involved in the recent review of this main council strategy. The plan is supported by the "Teignbridge Ten", a list of ten programmes aimed at securing practical improvements to people's lives. Performance indicators relating to these, and other, priorities are collected and regularly used to inform members discussions. Active engagement with this data by members (in meetings) appears limited.

We have seen evidence of meaningful performance management systems for the council at a strategic level. Performance is tracked monthly and quarterly; performance indicators measure and spur action across the spectrum of council activity.

Overall, performance is good. The council is able to plan and manage service delivery well. Governance should support this strong service delivery and should involve officers and members working together to ensure the authority is resilient and focused on the future – but at the moment relationships make this difficult. Furthermore, information about performance has not in the past been reported to councillors in a consistent way, possibly because councillors overall have not provided sufficiently clarity on how they expect to be so briefed. We were in fact told that many councillors have stated that they do not wish to see this information regularly, although we recognise that portfolio holders continue to be briefed on key issues. Even if performance is good with no undue worries about service delivery, meaningful member oversight is still important. We understand that improvements are underway here.

Together this suggests challenges around key relationships – in particular, uncertainty around who leads on the strategic direction of the authority, who oversees and manages delivery, and who holds those people to account. These

matters are central to the effectiveness of the governance system as a whole. We explore these issues in more depth in the main body of the report. As we have already noted, steps are now being taken to address these issues directly.

#### Overview of constitutional systems

Good relationships and a positive organisational culture need to be supported by robust and transparent constitutional and decision-making systems. A strong ethical framework in which governance can operate is central to a council's ability to deliver for local people.

Teignbridge exhibits weaknesses in its constitutional and decision-making systems. Inconsistencies and gaps in the Council's constitution have been long-recognised by the council – action is being taken to address these. Decision-making systems – particularly the Forward Plan – need more rigour and clarity in their operation, as do arrangements for the sharing of information with councillors. We talk specifically about these issues in sections 4.2 and 4.3. Although we were told by some that scrutiny arrangements had improved in recent months, the scrutiny function still appears to lack focus and direction. We expect that the reorganisation of the scrutiny committee structure (and the creation of a distinct Audit and Governance Committee) will provide a foundation on which to build better governance.

Resolution of these issues is important, and goes hand in hand with action on the broader cultural factors mentioned above. We should emphasise that action on these cultural matters – securing a clear member commitment to changes in behaviours, and clear adherence to the constitution – is a critical part of any plan for improvement.

This paper seeks to address these issues by setting out areas for further discussion and then potential areas in which action could be taken, sketching out what that action might look like. This paper deliberately does not provide a detailed prescription for action because first, members and officers need to take responsibility for recognising the position that the authority is in. Once the need for improvement is recognised responsibility for designing and delivering that improvement can be decided, and actions developed, refined and implemented. Member and officer ownership is a vital part of this whole process.

## 2. Improvement areas

This paper identifies six improvement areas for Teignbridge in respect of governance, scrutiny and ethical behaviours. For each, it:

- Sets out the context – our assessment of current council performance in this area, including any relevant shortcomings;
- Sets out the core issues that councillors and officers will need to discuss in order to bring improvements about;
- Provides examples of what improved systems, processes and behaviours might look like.

We have divided the six areas into two parts.

The first part relates to relationships and ethics. These are about the culture of the authority. The two areas relating to this part are:

- Councillors' relationships with each other (including the way that councillors engage with the standards system);
- Councillors' relationships with officers.

The second part, and the remaining four areas, relate to the formal systems that are in place to support a robust ethical framework:

- A constitution which provides a strong governance framework for the authority;
- Openness and transparency (particularly with regard to how information is shared with councillors);
- Consistent and clear decision-making arrangements;
- Effective scrutiny arrangements.



## 3. Relationships and ethics

### 3.1 Councillors' relationships with each other

#### *Context*

Councillors in Teignbridge do not always have good relationships with each other. The challenge that the council has had in relation to formal standards complaints is a symptom of this.

Some members talk about member relationships as having “turned a corner” and that there has been, or is, a culture change in progress in that regard. There is certainly a recognition of the need to change and a commitment to doing so. At the time that this review was conducted there was no systematic corporate action to make improvements here – although that has since changed. There will, however, still be work needed to ensure that behaviours and attitudes are not treated as an entirely individual matter.

There are a number of issues which have collectively caused these poor relationships. They include:

- The fact that a number of councillors see themselves as insurgents and disruptors rather than part of the council, with the responsibilities and duties that come with it;
- Some councillors' perception that the governance shortcomings that they perceive as being present at Teignbridge are so severe that they are justified in behaving poorly;
- Aligned to this, a sense from some councillors that the standards complaints are made politically, which is seen as justifying a defensive attitude when those processes are invoked. We have not been able to substantiate this assertion, as it involves drawing conclusions about the motivations of individual complainants in respect of cases where relevant information is exempt from publication. It is however worth noting that the majority of standards complaints derive from the public, rather than councillors' fellow politicians;
- A separate sense that standards hearings, and the outcomes of those hearings, are influenced by the political allegiances of those involved;
- A lack of a consistent understanding from councillors about what behaviours are, and are not, acceptable for elected members of a local authority;
- An unwillingness to talk candidly, cross-party, about these issues, and an overall absence of drive and direction on standards and ethical conduct on the part of the council corporately.

We cover the standards regime specifically on the next page.

Many of the relationship issues which exist are blamed by some on councillors on the 'Newton Says No' group and on certain independent councillors. We recognise that, further to findings that have been made by the Standards Committee, the individual behaviours of certain councillors have been found wanting. However, the behaviours of councillors, and the relationships between them, should be a concern of all councillors, and something all councillors have a stake in resolving

– it is not a matter of responsibility sitting with one group of councillors over another. The evidence we have gathered suggests that councillors do not recognise this general responsibility. The recent (summer 2022) resignation of both Independent Persons from the Standards Committee should be seen by councillors as a significant warning sign.

Poor relationships between members have negative implications for:

- The strength of key elements of the governance framework in general - on executive decision-making, the transaction of business at Full Council, and particularly on the operation of overview and scrutiny (which we discuss in more detail below).
- Democratic debate. Distrust between members makes good faith debate difficult. It also makes principled, constructive opposition more difficult. Effective opposition is about staking out an alternative vision for the future of the authority and the area, and constructive challenge on the design and delivery of services in the here and now. It is difficult to find examples of this kind of focused, directed opposition at Teignbridge. Opposition is instead focused on the minutiae of operational matters – this reflects a leadership focus on similar matters, which we note elsewhere;
- The extent to which councillors feel like, and act as if they are, “part of”, the authority. All councillors are members of the authority, with responsibilities and duties arising from this status. Some, however, do not recognise those duties. This impacts on – for example – councillors’ engagement in training and development opportunities available to them. Member engagement with this review, for example, has been poor; many councillors have not taken up training opportunities offered by the council;
- Decision-making. The council’s political leadership appears reticent in confidently and transparently developing decisions and putting them into action, in part because of concerned about the impact and nature of opposition to proposals. Draft consultations are put to Executive for comment; the same issues and items circulate amongst a wide variety of member forums for debate and discussion. Collaboration and plurality of decision-making are important, but clear decision-making systems require that those councillors empowered to take those decisions are able to work together to do so.

#### Shortcomings in the standards system

Overall, the standards system at Teignbridge is held in low regard.

A larger than expected number of standards complaints come to be dealt with formally at Standards Committee. The judgement of senior officers, and of external investigators, in how complaints are handled is consistently called into question. It cannot be seriously disputed that there have been some extremely poor member behaviours in the past and indeed recent past and that attempts to deal with those behaviours through the formal standards process has failed. Some councillors feel that politically-motivated complaints are brought against them, and seek to dismiss the findings of the committee (and of independent investigators) as being similarly politically-driven. It is a helpful step that the Leader of the Council has now stepped down from membership of the

committee – although it should be noted that it remains surprising that it should have been thought appropriate for him to be a member of the committee in the first place.

Shortcomings in the operation of the standards committee are understood by senior officers, who have attempted to draw in external assistance to improve its operations. Overall, councillors have not bought into these attempts at improvement, although we understand that more consistent steps to improve have been taken in recent months. More recently it has been proposed to draw members of the public into the operation of the standards regime as lay members.

The shortcomings that are present in Teignbridge’s standards system are a symptom of poor member relationships, reflecting a lack of individual and collective responsibility for good behaviour. They do not relate to the individual performance of the councillors who sit on the standards committee or the officers who support them.

The main issues are that:

- An unusually large number of standards complaints are brought, and result in external investigation;
- The council has adopted an approach of “firefighting” standards issues as they arise rather than addressing their root cause. The need for a shift in focus is recognised by senior officers and by some councillors. This in part, relates to a lack of officer capacity, but also to a lack of meaningful activity in individual political Groups to candidly discuss where responsibility lies for improving behaviours;
- The lack of strategic focus on this issue may have been worsened through the establishment of the Procedures Committee, whose shared responsibility for constitutional and governance issues may dilute the role of the Standards Committee – we note that action to establish a separate Audit and Governance Committee should begin to address this.
- There have been missed opportunities to broker these necessary, wider conversations. The integration of the LGA Model Code of Conduct into the Council’s constitution in 2021 would have acted as an excellent chance to do this but the Code was incorporated into the constitution with no real debate – although we know that there were some informal discussions about the wider implications, discussions which also involved senior officers. Some at the council cite the fact that the Committee can impose no “formal” sanctions as an insurmountable obstacle but no attempts have been made to investigate other options for the management of behaviour.

### *What improved systems might look like*

- Group Leaders setting the tone, and setting clear expectations, about how disciplinary issues should be managed;
- A review of the council Code of Conduct to develop common principles and expectations around day to day behaviour, which do not interfere with political debate. This is likely to link with actions in the section below on

councillors' relationships with officers. The Nolan principles are referenced in the Council's constitution but are poorly understood – more may need to be done to translate these, and other principles, into a form that demonstrate what adherence to them means for the day-to-day running of the council;

- The appointment of an independent person to sit on the standards committee;
- Clearer and more consistent pathways for dealing with standards issues when they do arise – potentially by triaging complaints more effectively and seeking where appropriate to manage them through mediation and the provision of advice. These may be done by enhancing existing systems for “local resolution” of complaints. In carrying out this work the council should have regard to the issues explored in “Local Government Ethical Standards: A Review by the Committee on Standards in Public Life” (CSPL, 2019) as well as to the approaches taken by other local authorities on these matters.

## 3.2 Councillors' relationships with officers

### *Context*

Relationships between members and officers are variable.

Many members are confident that relationships between members and officers are good. While many interactions are typified by politeness, effective relationships are about more than this; they rely on mutual responsibilities being understood.

Relationship challenges have several elements:

- As we have noted above, there has historically been little meaningful or consistent member leadership on standards and behaviours generally, although this is now changing;
- Mutual respect is lacking. Some councillors are suspicious of officers, and sceptical that they act in a neutral and apolitical way; some councillors also feel that officers have not “got used to” operating in a different political environment following the change in the Council's overall political balance. Some officers are exasperated by the lack of member focus on strategic issues, the febrile nature of the political environment and poor member behaviours generally. These are not circumstances that are conducive to the maintenance of good relationships. Political awareness training has been provided to relevant officers but more meaningful member-officer conversations are now needed;
- Councillors (including but not limited to the executive) have been extremely focused on operational matters – although senior councillors now recognise the need to shift their attention to strategic matters, and the council is making progress in this area. The hitherto present operational focus has led to frustration for officers, who considered that councillor involvement in these matters makes it more difficult for them to carry out their day to day work. In turn, this frustrates some councillors, who interpret it as an indication that officers want to “run” the authority. This is exacerbated by what we noted in the section above councillors' tendency to debate and discuss the same matters repeatedly, which produces further confusion.

This is, in part, a symptom of financial key decision thresholds which are set too low, as we explain further in the sections below, as well as being a symptom of councillors' lack of focus on strategic matters;

- This operational focus means that councillors have been less active in the strategic space – although the council's leader has now set an overall strategic direction for the authority, on which we have already commented. An operational focus makes it difficult for officers to act with confidence and certainty (for example, to understand clearly what the council's priorities are);
- Some councillors appear to have little confidence in officers, and have on occasion questioned their competence and probity. It is right that officers should be vigorously held to account but some councillors persist in these behaviours and actions with impunity and without evidence of the corruption or poor performance which they allege. In the governance sphere, some councillors' frequent refusal to sign off the minutes of meetings, and lengthy disputes on the minutes' accuracy, as a symptom of this. Officers recognise the presence of what many perceive as attempts to undermine them but attempts have not been made to understand why these member behaviours exist. As we have noted above, members seems similarly unwilling to examine their own behaviour and the behaviour of their peers;
- Officers have had difficulty understanding the needs and expectations of councillors. In part, this has been exacerbated by the impacts of the pandemic. Some officers struggle to navigate the council's complicated political landscape, and to understand councillors' motivations and objectives, which is unsurprising given the difficult, fractious and shifting nature of some of the political relationships and the lack of member strategic direction. In turn, some councillors report that, in their view, officers have found it difficult to manage the transition to a new council leadership. Although we should again stress the small sample size of our engagement with councillors, managing two changes in leadership closely following on from each other would, we recognise, have been a challenge for officers.

Poor officer/member relationships will come to have real world consequences, as it proves difficult or impossible to face up to difficult challenges.

### *What improved systems might look like*

- Systematic dialogue between members and officers around mutual expectations on the above;
- A member/officer protocol in the constitution which references the outcomes of these conversations. The making of formal commitments through a protocol, while it would not automatically change behaviours, would make standards and conducts more of a priority and provide clear, defined expectations around what behaviours are, and are not, appropriate;
- Decision-making arrangements (in the constitution and elsewhere) which provide a clear demarcation between members and officer roles, reflected in the scheme of delegation.

## 4. The constitution, and the framework of ethical governance

### 4.1 A constitution which provides a strong governance framework for the authority

#### *Context*

The Council's constitution has been subject to minimal change since 2010. Some changes were made in November 2020 and were the subject of disagreement<sup>1</sup>. It is important to note that – despite councillors' disagreement with the way in which they were made – these changes were necessary, and further steps to evolve and develop the constitution now need to be taken.

Ongoing uncertainty (in the minds of councillors) as to whether the current constitution is “valid” is not helping with behaviours, relationships or the relative strength of the wider governance framework. The constitution is in need of urgent review and updating. A constitution which allows for uncertainty or which contains rules which are inconsistently understood and applied does not help to promote clarity around roles and responsibilities, particularly around ethical behaviours.

Members have been frustrated about the way that the constitution has been recently amended, but other than this they have taken no meaningful ownership on its improvement.

This review has not carried out an evaluation or investigation into the constitution. It has however looked at the constitution and its contents and has sought to consider it insofar as it assists in the development and maintenance of strong relationships and behaviours. In doing so a number of issues have arisen:

- The constitution is difficult to navigate;
- Connected matters are not cross-referenced (we note shortcomings below on access to information arrangements for councillors);
- Language used is inconsistent in style and content (in relation to standards and conduct);
- In general, the constitution does not provide an accurate guide to how decisions are made and business is transacted, because (for example):
  - Decision-making is convoluted, reflecting the confusion around relationships we discussed above (this is discussed in more detail below);
  - Informal systems to manage decision-making are not acknowledged or taken account of. The constitution should make explicit reference to the ways in which members of the executive and members of Groups will be briefed and engaged with on matters of importance; members need the assurance that the constitution provides a full

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<sup>1</sup> Disagreement hinges on whether the changes made in November 2020 were sufficient minor to be made by the Monitoring Officer or whether they were “material” changes requiring full Council approval. The matter was most recently considered by the council's Procedure Committee on 21 July and has still not been resolved. There is neither a timescale nor a plan for the resolution of this issue.

picture on how decisions progress from the corporate plan to the executive, or Council;

- The council's approach to the management of motions reflects inconsistent provisions in the Constitution (in particular, inconsistencies between sections 4.2 and 4.9.4). The highly atypical way in which motions are managed suggests to us that councillors use them, and their passage around a range of member bodies, as a way to engage in circular debate on administrative issues without having to resolve them.

These issues are important because without clarity and accuracy in its governing documents, it will be much more challenging for the council to chart a path to better behaviours and relationships.

#### Components of an effective constitution

A good council constitution embodies – amongst other things:

- Clarity;
- Consistency;
- A lack of duplication;
- Readability;
- Accuracy in reflecting local government legislation.

Overall, a good council constitution is grounded in good practice and in the principles of good governance overall.

We are not confident that the Procedures Committee, as currently organised, will be capable of addressing this issue in a measured and strategic way, given that the first order of business at their meeting on 21 July 2021 was to seek to continue the unproductive debate on the November 2020 constitutional changes.

#### *What improved systems might look like*

- Ongoing member leadership on a systematic review of the constitution – understanding where the priorities for review lie and how changes can be managed and sequenced. Changes are now being made, and the proposed Audit and Governance Committee provides a clear space for ownership;
- Using discussion on amendments and improvements as a way to discuss and chart a way to improve the behaviours and relationships highlighted earlier in this report.

#### 4.2 Openness and transparency (particularly with regard to how information is shared with councillors)

##### *Context*

A number of councillors feel that it has been difficult for them to get hold of information on matters of importance. We feel that information is in fact



available, but councillors are not necessarily aware of where to find it, and who to approach to secure access.

It is certainly the case that the constitutional provisions relating to member access to information need to be revisited. Members and officers need to develop mutual understandings about where rights lie, and how members needs can be properly met. In particular:

- Content about members' rights to access information is spread around the constitution and not cross-referenced;
- This heightens the likelihood that readers of the constitution will have an erroneous impression of where councillors' information rights lie, particularly with respect to the rights of individual members of scrutiny committees;
- There is little consistency in how officer reports are prepared, meaning that members can have little certainty in what they might expect to see, as standard, by way of background information to support decision-making. This will inevitably increase suspicion and has, we know, contributed to numerous member "fishing expeditions".

### *What improved systems might look like*

- Templates for officer reports, further to training and development offered to officers on report writing skills – steps to provide this training and support is now in train;
- As part of the constitution, an accurate and comprehensive protocol for member access to information. Such a protocol forms part of the planned changes to the constitution.

## 4.3 Consistent and clear decision-making arrangements

### *Context*

Decision-making systems at Teignbridge appear unclear. In part, this derives from the challenges around member/member and member/officer relationships we highlighted earlier.

The constitution gives the Leader broad power to determine the status of business as key decisions and executive decisions. Despite this the content of the Forward Plan does not obviously reflect the council's stated priorities, and nor does business transacted in Executive and in other forums.

The Forward Plan is more a forward agenda planner for Executivemeetings than a schedule of key decisions. There are matters on the Forward Plan which do not appear to be "decisions" in the normal sense of the word, and are instead items being placed on the agenda of a future Executivet meeting, often to provide an update to councillors on a forthcoming consultation or a performance issue. Overall decision-making appears sluggish, with items being brought to Executiveunnecessarily and spending lengthy periods under discussion where their strategic importance is minimal. Those in senior leadership positions do recognise that barriers appear to exist in "getting things through" but nobody has been able to take the lead on charting a path to improvement. Councillors need to be able to



set clearer expectations on who makes decisions, involving whom, and at what time.

The focus on decision-making on operational matters reflects the behavioural challenges we noted in the sections above and is further evidenced by:

- The unusually low financial thresholds applied to key decisions (only £50,000 for revenue expenditure and £125,000 for capital) Thresholds in shire districts do vary, but a threshold of double the current level for both revenue and capital would seem reasonable. Actions are planned to be taken on financial thresholds as part of wider constitutional changes.
- The scheme of delegation, which as it currently stands does not act as a particularly effective tool for officers or members to decide where and when decisions should be brought to either members or officers. The flow of decisions coming to Cabinet do not appear to reflect the scheme – the nature and scope of member decision-making on things like the Future High Streets Fund, the Alexandra Theatre and the Rural Skips Service appears to have been idiosyncratic. In our view this reflects the difficulty that the Council’s leadership finds in making decisions which they consider may be unpopular or contentious.

Members’ prevailing interest in operational issues is likely to be having a negative impact on officers’ ability to confidently make operational decisions on their own. There may in certain instances be a culture of bringing items to Cabinet for review and input just to be sure – it is unclear whether this is derived from officer caution, members’ interest in those issues, or a combination of the two. This further confuses member/officer roles.

### *What improved systems might look like*

- Forward Plan arrangements which align with the wider constitution and with the council’s overall corporate priorities;
- Clear systems, for important strategic decisions, for the involvement and engagement of a wider range of councillors.

## 4.4 Effective scrutiny arrangements

### *Context*

The overview and scrutiny function is not effective as it should be. A number of members value it and its work, and consider that it has improved with the additional of a second main committee. This reflects corporately-led attempts at improvement – the Leader wants scrutiny to be effective. However, there is frustration with its operation from a range of members and officers, who see a lack of co-ordination and focus in the work programme.

Former arrangements (where 30 councillors sat on a single scrutiny committee) were rightly seen as unsustainable but the approach taken to reorganisation in scrutiny has not worked. Further proposals now exist to change the names and terms of reference of scrutiny committees, which will be considered by Council in November 2022.

The assumption appears to have been made that structural reform alone – essentially splitting the main committee into two – would resolve scrutiny’s problems.

Particular challenges with scrutiny include that:

- Scrutiny undertakes a great deal of activity (which some officers find to be onerous) but it is difficult to discern clear impact from scrutiny’s work. Scrutiny involves the circulation of a lot of material (particularly performance information) but as with Executive, the quality of reports is variable and members’ meaningful engagement with those reports is limited;
- Business does not seem to be aligned with either the council’s overall priorities or with pressing performance or risk challenges.
- The way that the terms of reference for each committee have been historically set out makes it easy for matters to fall between the cracks, and for cross-cutting issues to not be considered effectively. While the recent changes to the names of O&S committees, and changes to their terms of reference, will help, attention will need to be paid to agenda planning to ensure that cross-cutting issues are dealt with appropriately;
- Although formal systems exist for work programming and the selection of items for scrutiny agendas, there is no evidence that these systems are used systematically;
- There is a full programme of task and finish groups. The outcome of these groups is difficult to identify and track and, as with items on committee agendas, it is unclear exactly why certain issues are selected for further examination in this way.

Members of Executive are regularly held to account in scrutiny meetings and these sessions (though quite loosely managed) do provide challenge on key areas of council activity as well as on the Leader’s three principal commitments. Behaviour in committee generally appears civil; councillors highly critical of the authority in other spaces appear to make few contributions, which we consider unusual.

Until recently the Council had an “Audit Scrutiny Committee” – a scrutiny committee which transacted the duties of a formal member audit committee. This was poor practice from a governance perspective – the Council plans to change its approach by proposing the appointment of a separate Audit and Governance Committee, which will go some way to ensuring an appropriate focus on financial and governance issues.

Audit Scrutiny has historically received twice-yearly update on strategic risks. The quality of these reports are good and demonstrate the presence of a reasonably robust risk management system overall. It is, however, clear that there is not a wider member ownership and discussion of risk. In our view this is a contributory factor in the lack of clarity between member and officer roles – a better understanding across the authority of strategic risk would help members to be able to focus their time on those matters which would make a difference. However, we recognise that the current political environment makes candid discussion of risk in public forums a challenge. We note that the Audit Plan does now include an action to review the corporate approach to risk management.

### *What improved systems might look like*

- More effective work programming arrangements based on better cross party working;
- More effective methods for determining the effectiveness of scrutiny's work.