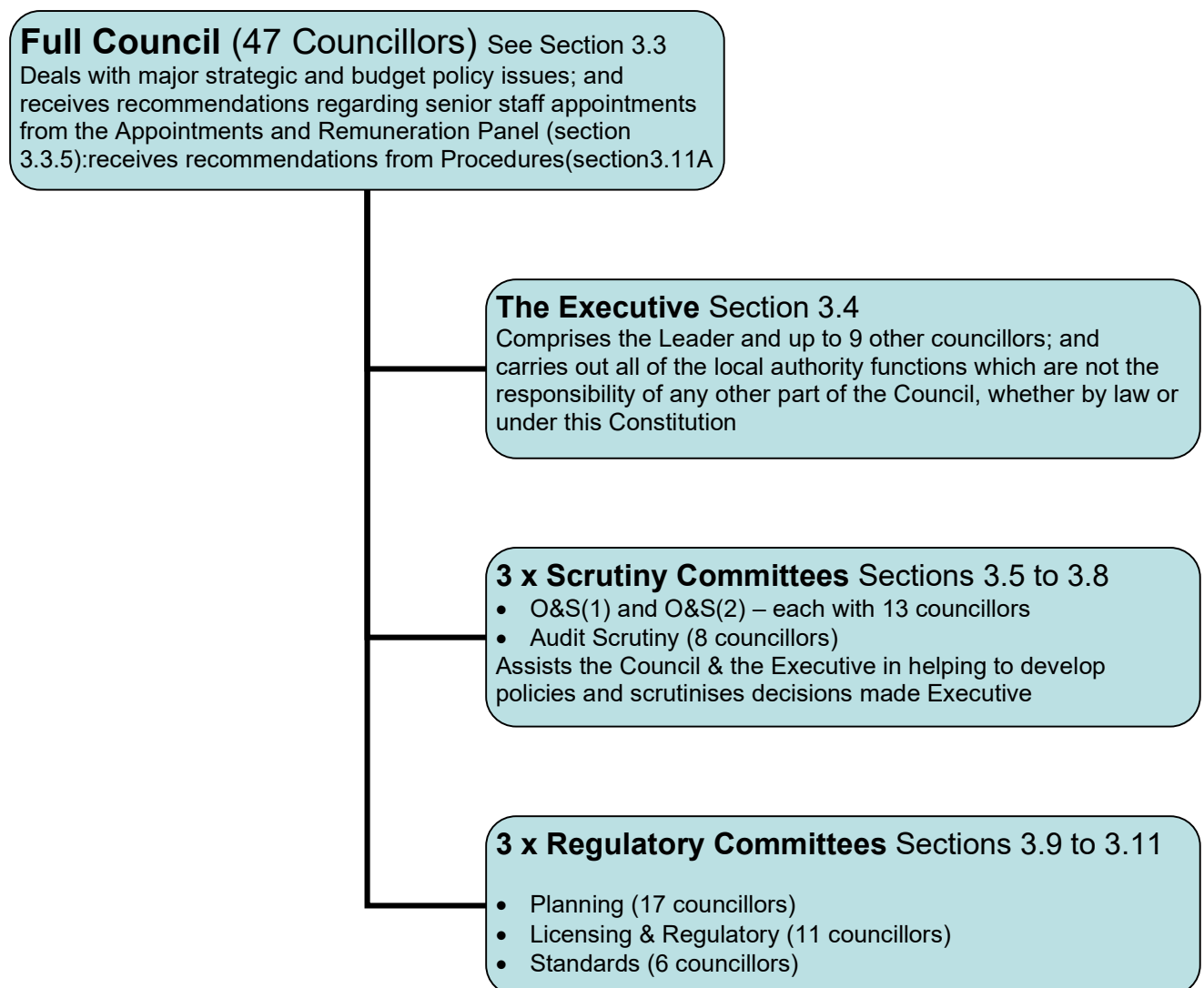


## 3. Decision Making Structure

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 his 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 his 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 he considers 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:

- (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 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 to the adoption of a Pay Policy Statement.

## **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 his 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; and in the case of capital, any project with a value in excess of £250,000; 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).

### **3.5 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 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 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 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 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.

### **3.9 Planning Committee**

**3.9.1 Membership:** The committee has 17 members who are elected councillors who are appointed at the Annual Meeting of Full Council. The committee is politically balanced. 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. 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

### **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 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) 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.gob.uk](mailto:comsec@teignbridge.gob.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.