

## 4. Procedural Rules

This section describes the procedural rules that apply to all formal Council and Committee meetings.

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

- 4.1.1 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.
- 4.1.2 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 a majority of Members of the Committee present approve such motion. Suspension can only be for the duration of the meeting and the meeting can at any time vote to re-instate standing orders by a motion in which the majority of Members of the Committee present approve such motion.

### **4.2 Meetings of the Council**

- 4.2.1 Meetings of the Council will be held at Forde House, Newton Abbot, or such other place as the Council may decide.
- 4.2.2 Ordinary meetings are called to consider general business, on the dates and times shown in the Council's calendar of meetings.

4.2.3 Special or Extraordinary Meetings can be convened by the Managing Director (see 4.5)

4.2.4 If the Chair considers that severe weather conditions or some other unforeseen circumstance warrants it, they may postpone a scheduled meeting for a period of no more than 10 working days from the original meeting date or consider an alternative location.

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

4.3.1 On behalf of the Managing Director as the Proper Officer, the Democratic Services Team will give notice to the public of the time and place of any meeting and the items of business to be transacted in accordance with the law. The time and place of meetings will be determined by the Democratic Services Manager (in consultation with the Chair of the relevant committee) and notified in the summons.

### **4.4 Agenda Items**

4.4.1 Agenda items will be compiled by the Democratic Services Team from the relevant Committee Forward Plan or Work Programme or in consultation with the Chair of the Committee.

4.4.2 Agenda items must be approved by the Chair and Managing Director provided that a Member may, upon giving ten working days' notice to the Democratic Services Manager 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.

### **4.5 Chairing of the Meeting**

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

### **4.6 Quorum**

4.6.1 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 Committee.
- (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 Governance Committee or Licensing & Regulatory Committee.

4.6.2 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.

#### **4.7 Extraordinary Meetings**

4.7.1 Those listed below may require the Managing Director to call special or extraordinary Council or Committee meetings in addition to ordinary meetings:

- (a) the Council by resolution;
- (b) the Chair of the Council or the Chair of the Committee;
- (c) the Monitoring Officer or the Section 151 / 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.

4.7.2 Sub paragraph (b) & (d) above are subject to the Managing Director being satisfied that:

- (i) The requisition relates to matters for which the Council is responsible, or which directly affect the District.
- (ii) The requisition does not relate to the personal affairs or conduct of individual members.
- (iii) The requisition does not relate to planning or licensing matters.
- (iv) The requisition is not trivial, offensive or frivolous.
- (v) The requisition concerns a matter that is being dealt with elsewhere within the Council.
- (vi) The requisition does not relate to a matter(s) that has been debated in the last six months.

4.7.3 At such extraordinary meetings, the order of business will be as follows:

- (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.

#### **4.8 Minutes**

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.

#### **4.9 General Rules of Debate**

The General Rules of debate are most applicable to meetings of Full Council but apply to all meetings. However, it is recognised that Committee meetings run differently to Full Council and it is for the Chair of the Committee to apply or disapply such rules as they see fit within their powers given in the Constitution.

#### **4.9.1 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.

#### **4.9.2 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.

#### **4.9.3 Secunder's speech**

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

#### **4.9.4 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.

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

A Member who has spoken on a motion may speak again whilst it is the subject of debate for the following reasons:

- 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);
- To exercise a right of reply (as per 4.9.9);
- On a point of order (as per 4.9.10); or
- By way of personal explanation (as per 4.9.11).

For any other reason, it is at the Chair's discretion to allow Members to speak again if they have spoken once in the debate.

#### **4.9.6 Amendments to motions**

An amendment to a motion must be relevant to the motion and cannot negate the motion and will either be:

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

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.

The Chair will invite amendments at the end of each discussion. Members wishing to put forward an amendment must then indicate their intention to do so. The Chair will invite each member wishing to make such a proposal to set out their proposal in the order received. The Chair may seek to eliminate any duplicity through collaboration with those presenting a proposal to amend and by being mindful of paragraph 4.9.7 and paragraph 4.9.8.

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.

#### **4.9.7 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 have 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.

#### **4.9.8 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.

#### **4.9.9 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.

#### **4.9.10 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.

#### **4.9.11 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 in order to correct the record. The ruling of the Chair on the admissibility of a personal explanation will be final.

#### **4.9.12 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) a closure motion (4.9.13);
- (d) to exclude the public and press in accordance with the Access to Information Rules (4.17);
- (e) to appoint a Chair of the meeting at which the motion is moved;
- (f) in relation to the accuracy of the minutes;
- (g) to change the order of business in the agenda;
- (h) to refer something to an appropriate body or individual;
- (i) appoint a Committee or Member arising from an item on the summons for the meeting;
- (j) receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- (k) to withdraw a motion;
- (l) to amend a motion;
- (m) in relation to Member Conduct (pursuant to 4.11);
- (n) to give the consent of the Council where its consent is required by this Constitution.

#### **4.9.13 Closure motions**

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

- (a) to proceed to the next business;
- (b) that the question be now put;
- (c) to adjourn a debate; or
- (d) 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.

#### **4.9.14 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.

#### **4.9.15 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.

### **4.10 Voting**

#### **4.10.1 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.

#### **4.10.2 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.

#### **4.10.3 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.

#### **4.10.4 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.

#### **4.10.5 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.

#### **4.10.6 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.

#### **4.10.7 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.

### **4.11 Conduct at Meetings**

#### **4.11.1 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 order for that part of the room to be cleared and, if they consider it necessary, may adjourn the meeting whilst this action is taken.

### **Members' Conduct**

#### **4.11.1 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.

#### **4.11.2 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.

#### **4.11.3 That a Member be not further heard**

If a member persistently ignores or disobeys the ruling of the Chair or behaves irregularly, improperly or offensively or deliberately obstructs the business of the meeting any member may move '*That the member named be not further heard*' which, if seconded, must be put to the vote without discussion. If approved, the Member in question will not be able to speak further in the agenda item.

#### **4.11.4 That a Member leave the meeting for the item being discussed**

If a Member continues to misbehave the Chair will either move '*That the member named leave the meeting for the item being discussed*' which, if seconded, must be put to the vote without discussion or adjourn the meeting for such time as they think fit. If approved, the Member in question will have to leave the meeting room for the remainder of the agenda item.

#### **4.11.5 That a Member leave the meeting**

If a Member continues to misbehave, the Chair will move '*That the member named leave the meeting*' which, if seconded, must be put to the vote without discussion. If approved, the Member in question will have to leave the meeting room for the remainder of the agenda item. If the member refuses to go the Chair can order that they be removed.

### **4.12 Procedural Rules applicable to Full Council only**

#### **4.12.1 Standing to speak**

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.

#### **4.12.2 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) Chair's Announcements (from the previous civic year if they are present);
- (c) elect the Chair of the Council;
- (d) elect the Vice-Chair of the Council;
- (e) approve the minutes of the last Council meeting;
- (f) receive any announcements from the Chair, Managing Director, Leader and/or Executive Members;
- (g) elect the Leader (unless the appointment was made for a four year term following the Council election or the Leader post is vacant);

- (h) agree any changes to the Constitution (including any changes to Committees)
- (i) appoint the Chairs, Vice Chairs and Membership of Committees;
- (j) appoint the Council's representatives to outside bodies and organisations (where applicable);
- (k) receive Annual Reports from the Council's Committees; and
- (l) consider any business set out in the notice convening the meeting.

#### **4.12.3 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 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 any valid petitions from the Members of the Public or Members of the Council.
- (g) deal with any business from the last Council meeting;
- (h) receive reports from Executive, Committees and other bodies (including questions and answers on such reports) as appropriate;
- (i) consider any other business specified in the summons to the meeting.
- (j) receive and answer questions from Members which in the opinion of the Chair are relevant to the business of the Council; and
- (k) consider Notices of Motion(s).

#### **4.12.4 Notices of Motions**

##### **4.12.4.1 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 ten clear working days before the date of the meeting.

The councillor proposing the Notice of Motion must provide evidence that they have the support of a seconder and three other councillors. The evidence shall accompany the Notice of Motion when first submitted. This should be done by the proposer attaching the emails of support to the email used to submit the Notice.

##### **4.12.4.2 Motion set out in agenda**

Motions for which notice has been given will be listed on the agenda as the last item of business 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.

##### **4.12.4.3 Scope**

The relevant motion must fall within the following scope which will be determined by the Monitoring Officer:

- (a) Motions must be about matters which are related to the responsibilities of the Council or which directly affect the District.
- (b) Motions may not relate to the personal affairs or conduct of individual Members.
- (c) Motions must not include inappropriate or inflammatory language.
- (d) Motions must not relate to matters that have been debated in the last six months.
- (e) Provide sufficient evidence to demonstrate that it meets one or more of the following criteria:
  - It is a District level function over which the District has some control
  - It is a recently introduced policy, service area of activity which would be timely for review
  - It is a policy which has been running for some time and is due for review
  - It is a major proposal for change
  - It is an issue raised via complaints received
  - It is an area of public concern
  - It is an area of poor performance

#### 4.12.4.4 **Process**

If for any reason the proposer of a motion is unable to be present at the meeting, then one of the Councillors supporting the Notice may move it.

The Councillor proposing the Notice of Motion may at the same time propose that the motion be referred to a Committee without debate. If the motion is referred to another Committee, it will consider the motion at its next available meeting. Unless referred back to Full Council by a Committee, there is no requirement for the Notice of Motion to return to Full Council if it has been dealt with by another Committee.

Prior to the debate of a motion, there will be opportunity for an appropriate person to give a statement regarding the facts of the motion to ensure that the debate is well informed.

The Councillor proposing the Motion has a right of reply on their motion and any amendment to their motion.

Only one amendment can be moved and debated at any given time.

Amendments that seek to materially alter or change the subject or meaning of the original motion are not permitted.

If the meeting votes to accept the amendment, that becomes the final motion, subject to any further amendments.

#### 4.12.4.5 **Time Limits**

The overall time limit for dealing with Notices of Motion is 60 minutes.

The proposer may speak for a maximum of five minutes. Other councillors are limited to three minutes.

Members may speak only once on a motion with the exception of the proposer who has a right of reply immediately before a vote is taken.

At the end of the period of 60 minutes motions not dealt with and resolved shall carry forward to the next meeting.

#### **4.13 Public Participation, Questions from Members of the Public and Petitions Process**

The Council welcomes public participation at its meetings and has a dedicated website page highlighting the different ways that the public can engage at its meetings ([Public participation and attending meetings](#)).

##### **4.13.1 Questions from Members of the Public**

*Applies only to Full Council, Executive and Audit Committee.*

Members of the public may ask questions of the Chair of Council, Executive Member (including the Leader) or a Committee Chair.

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Democratic Services Team at [democraticservicestdc@teignbridge.gov.uk](mailto:democraticservicestdc@teignbridge.gov.uk) no later than five clear working days before the meeting i.e. should the meeting be on a Tuesday the deadline would be the Monday before at 5pm.

Each questioner must give their name and address.

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.

The Monitoring Officer may reject a question if it:

- a) relates to something that is or should be the subject of alternative recognised procedures (for example, staffing issues, complaint, licensing or planning matters);
- b) is not about a matter for which the local authority has a responsibility or does not affect the District;
- c) is defamatory, frivolous or offensive;
- d) is contrary to the Constitution;
- e) is substantially the same as a question which has been previously put in the past six months; or
- f) requires the disclosure of confidential or exempt information.

The Democratic Services Team will refer these to the appropriate member for reply. A maximum period of 30 minutes will be allowed.

Questions will be asked in the order notice they were received, except that the Chair of the relevant meeting may group together similar questions.

Questions received in time, and which are not rejected will be published as soon as is practicable in advance of the relevant meeting.

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.

A questioner 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. The Chair may reject a supplementary question on any of the grounds applicable to the scope of questions in (a-f) above. The answer to the supplementary question may take the same form as the above (a-c). Each person has no more than one minute to ask their supplementary question.

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 (a-f) above.

If a questioner who has submitted a written question is unable to be present, an alternative spokesperson may attend the meeting to ask the supplementary question.

In exceptional circumstances questions may be referred to another Committee at the discretion of the Chair.

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.

#### **4.13.2 Petitions Process**

*Applicable to Full Council only.*

Members of the Public and Members of the Council may present and submit a petition at ordinary meetings of Full Council.

A petition may only be presented if notice has been given by in writing or by email to Democratic Services ([democraticservicestdc@teignbridge.gov.uk](mailto:democraticservicestdc@teignbridge.gov.uk)) no later than five clear working days before the meeting i.e. Should the meeting be on a Tuesday the deadline would be the Monday before at 5pm.

Petitions must include a clear and brief paragraph about the subject matter and ideally what action the Council is being asked to take.

The petition organiser must ensure they provide their name, address and contact details.

In order to be accepted, petitions must include at least fifty signatories (name, address and signature) from residents of Teignbridge. The petition organiser is responsible for the validity of the signatories.

In order to be accepted, the Monitoring Officer must be satisfied that the petition: relates to matters for which the Council is responsible for or which directly affect the District; does not relate to the personal affairs or conduct of individual members, planning or licensing matters; is trivial, offensive or frivolous or relates to a matter that has been debated in the last six months.

The petition must be presented in person and the petition formally handed to the Chair of the Council at a Full Council Meeting as part of a “Petitions” agenda item. The petition organiser will have an opportunity to address the Council for three minutes to present their petition before formally handing it to the Chair of the Council. If the petition organiser is unavailable to present the petition, they may nominate an alternative person to present the petition.

After being presented, the petition organiser will receive a written response from the relevant Member (e.g. the Leader, Member of the Executive or Chair of a Committee) no later than ten working days after the meeting to advise how the petition will be dealt with.

Democratic Services will store any presented petitions and retain the information contained within the petition until the subject matter of the petition has been dealt with.

This petitions process does not apply to valid petitions to change the Council’s governance arrangements, which are instead governed by the Local Authorities (Referendums) (Petitions) (England) Regulations 2011

#### **4.13.3 Representations from Members of the Public**

*Applies only to Overview and Scrutiny Committee meetings.*

At Overview and Scrutiny Committee meetings, a member of the public who is resident in the District may make an oral representation.

Representations allow interested parties to raise issues of concern or celebration to aid Overview and Scrutiny Members in their later debate by providing additional voices from residents, service users and the wider community or to bring items to the attention of the Committee.

Representations will be limited to a maximum of three minutes per person, within an overall time limit of 30 minutes.

If a member of the public wishes to make a representation, they should, via email [democraticservices@teignbridge.gov.uk](mailto:democraticservices@teignbridge.gov.uk) no later than five clear working days before the meeting i.e. should the meeting be on a Tuesday the deadline would be the Monday before at 5pm, submit their name and address, and details and an overview of the points they wish to raise,.

Representations should relate to one of the following:

- a) A substantive matter on the agenda for that meeting (not including minutes or work programmes);
- b) A service area of activity which would be timely for review;
- c) It is a policy which has been recently introduced or has been running for some time and is due for review;

- d) Major proposals for change;
- e) Areas of public concern; or
- f) Areas of poor performance.

The Monitoring Officer, in consultation with the Chair of the Committee, may decline a representation if it:

- a) is not a substantive matter on the agenda for that meeting;
- b) relates to something that is or should be the subject of alternative recognised procedures (e.g. staffing issues, complaints, licensing or planning matters);
- c) is not a matter for which the local authority has a responsibility or does not affect the District;
- d) is defamatory, frivolous or offensive;
- e) is contrary to the Constitution;
- f) is substantially the same as previous question or representation which has been previously put in the past six months; or
- g) discloses or requires the disclosure of confidential or exempt information.

There will not be any detailed answers to any points that are raised at the meeting, although officers or Members may choose to respond if they wish to do so. This is not a debate, but an opportunity for clarification if needed. Members may take into consideration the points that are raised in their questioning of the subject at the appropriate point in the meeting.

If more than one person wishes to make the same point or make similar representations, those persons may be asked to agree a spokesperson to make a single representation. If speakers at the meeting are repeating issues that have already been raised, the Chair will ask the speaker to move on.

It is important to recognise that Scrutiny Committees are not decision-making bodies but can make recommendations to the Executive (a decision-making body), therefore consider which forum or mechanism might be best to engage with the Council's meetings.

#### **4.14 Questions from Members of the Council**

*Applies only to Full Council, Overview and Scrutiny Committee and Audit Committee.*

Other than under the provisions for questions without notice 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.

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

- a) they have given written notice of the question no later than five clear working days before the meeting i.e. should the meeting be on a Tuesday the deadline would be the Monday before at 5pm to the Democratic Services Team [democraticservicestdc@teignbridge.gov.uk](mailto:democraticservicestdc@teignbridge.gov.uk) ; or

- b) the question relates to urgent matters, and 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 [democraticservices@teignbridge.gov.uk](mailto:democraticservices@teignbridge.gov.uk) on the day of but prior to the meeting.

The Monitoring Officer may reject a question for one or more of the following grounds if in their opinion it:

- a) relates to something that is or should be the subject of alternative recognised procedures (for example, staffing issues, complaint, licensing or planning matters);
- b) is not about a matter for which the local authority has a responsibility or does not affect the District;
- c) is defamatory, frivolous or offensive;
- d) Is contrary to the Constitution;
- e) Seeks to benefit the questioner themselves or a personal contact;
- f) is substantially the same as a question which has been previously put in the past six months; or
- g) requires the disclosure of confidential or exempt information.

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 Member.

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. The Chair may reject a supplementary question on any of the grounds applicable to the scope of questions in (a-g) above. The answer to the supplementary question may take the same form as the above (a-c).

Questions received in time, and which are not rejected will be published as soon as is practicable in advance of the relevant meeting.

The total time allowed/allotted for Member questions and answers is 30 minutes.

Questions will be presented in the order that they were received by Democratic Services.

Each Member has no more than 1 minute to ask their supplementary question.

*The process would be that the member raising the question would precis it at the meeting and the Responder would briefly respond with their answer and ask if there would be a supplementary question.*

In circumstances where a Member seeks to ask more than one question, any second and subsequent questions will be permitted subject to the principle of one question per member and time constraints. Where time allows, any such additional questions will be presented in the order they were received and in rotation.

After the allotted period of 30 minutes has elapsed, any member submitting a question that was not able to be heard, will be referred to the next meeting or dealt with in some other way namely a written response.

#### **4.15 Procedural Rules applicable to Executive**

##### **4.15.1 The Forward Plan**

Notices of Key Decisions and other decisions of the Executive will set out details of specific key decisions and key decisions anticipated over a 12-month period. In this Constitution, such notices are together referred to as the “Executive Forward Plan”. The Forward Plan does not have to include exempt information and should not include confidential information.

##### **4.15.2 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 the Overview and Scrutiny Committee, 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.

##### **4.15.3 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 relevant Director 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.

**(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) 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:

- a) 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;
- b) the Monitoring Officer has informed the Chair of the Overview and 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;
- c) the proper officer has made copies of that notice available to the public at the offices of the Council; and
- d) at least five clear days have elapsed since the proper officer complied with (a) and (b).

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.

**(c) 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 Overview and 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.

**(d) Report to Council:** When the Overview and 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 Overview and 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 Overview and 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 Overview and 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 Overview and Scrutiny Committee or any 5 members of the committee. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and 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.

**(e) 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.

#### **4.15.4 Executive Member Decisions:**

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 and Scrutiny Committee and to the local Ward Member(s) if it relates to a local issue.

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

#### **4.15.3 Record of Executive Committee Decisions**

After any meeting of the Executive the Democratic Services Manager 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.

A record will be placed on the Council's website and available for inspection by the public at the Council's offices.

#### **4.15.4 Record of Executive decisions by Individual Executive Members**

As soon as is reasonably practicable after an individual Member has made an Executive decision, the Member must produce or instruct the proper officer to produce a written statement of the decision. 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. A record will be placed on the Council's website and available for inspection by the public at the Council's offices

#### **4.15.5 Record of Executive Decisions by Officers**

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 Managing Director. 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. A record will be placed on the Council's website and available for inspection by the public at the Council's offices

#### **4.15.6 Notification of Decisions (whether individual or full Executive decisions)**

Once made, the decision will be notified to all Members of the Council within 2 clear working days.

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'.

#### **4.15.7 Call in of Executive Decision**

See Section 8(b) of the Constitution which sets out the procedure for call in by the Overview and Scrutiny Committee of Executive and Executive Member Decisions.

#### **4.16 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 [democraticservicestdc@teignbridge.gov.uk](mailto:democraticservicestdc@teignbridge.gov.uk) (unless otherwise agreed by the Democratic Services Manager) 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 Democratic Services Manager.

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.

#### **4.17 Access to Information Procedural Rules**

##### **4.17.1 Scope**

These rules apply to all public meetings of the Council, the Executive, and all Committees and Sub Committees. These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law. These rules do not limit or diminish or limit the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 2018.

##### **4.17.2 Rights to attend meetings**

Members of the public may attend all public Council and Committee meetings subject only to the exceptions in these rules.

##### **4.17.7 Notices of meeting**

The Council will list all of its public meetings scheduled on the Council's website, notwithstanding any extraordinary meetings which may be called. The time and place of meetings will be determined by the Democratic Services Manager (in consultation with the Chair of the relevant committee) and notified in the summons (see 4.3).

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

##### **4.17.8 Access to agenda and reports before the meeting**

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on its web site at least five clear days before the meeting or when notice of the meeting is given. If an item is added to the

agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection from the time the item was added to the agenda.

Except during any part of a meeting during which the public are excluded, the Council will make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting.

#### **4.17.9 Supply of copies**

The Council will, following a request on behalf of a newspaper and on payment being made of postage charges or any other necessary charges for transmission, supply to the newspaper:

- a copy of the agenda for a public meeting and a copy of each of the reports for consideration at the meeting
- such further statements or particulars, if any, as are necessary to indicate the nature of the items contained in the agenda.

If the Monitoring Officer thinks fit, in the case of any item, a copy of any other documents supplied to councillors in connection with the item.

Where a document is available for public inspection, the Council will, on request, supply a copy of the document or part of the document to a person on payment of any reasonable fee required by the Council.

#### **4.17.10 Access to minutes and documents after the meeting**

The Council will make available copies of the following for six years after a meeting:

- a) the agenda for the meeting
- b) reports relating to items when the meeting was open to the public.
- c) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Executive excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information.
- d) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record.

Decisions will be notified within two working days of the meeting and minutes will be published as soon as is practicable (with an aim of five to ten working days after the meeting).

#### **4.17.11 Background papers**

The officer submitting a report will set out in the report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- a) disclose any facts or matters on which the report or an important part of the report is based; and
- b) have been relied on to a material extent in preparing the report but do not include published works or those which disclose exempt or confidential information.

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

**4.17.12 Exclusion of the public from meetings**

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.

- a) **Confidential information:** The public must 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 confidential information would be disclosed.

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information the disclosure of which to the public is prohibited by legislation or Court Order.

- b) **Exempt information:** 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 information would be disclosed, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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.  Information is not exempt information if it is required to be registered under: <ul style="list-style-type: none"> <li>• the Companies Act 1985</li> <li>• the Friendly Societies Act 1974</li> <li>• the Friendly Societies Act 1992</li> <li>• the Industrial and Provident Societies Acts 1965 to 1978</li> <li>• the Building Societies Act 1986</li> </ul>

	<ul style="list-style-type: none"> <li>• the Charities Act 1993.</li> </ul> <p>"Financial or business affairs" includes contemplated, as well as past or current activities.</p> <p>"Registered" in relation to information required to be registered under the Building Societies Act 1986 means recorded in the public file of any building society (within the meaning of that Act).</p>
<p>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</p>	<p>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</p> <p>.</p> <p>"Employee" means a person employed under a contract of service.</p> <p>"Labour relations matter" means:</p> <ul style="list-style-type: none"> <li>• any of the matters specified in paragraphs (a) to (g) of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</li> <li>• any dispute about a matter falling within paragraph (a) above;</li> </ul> <p>and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority.</p> <p>"Office-holder", in relation to the authority, means the holder of any paid office appointments to which are, or may be made, or confirmed, by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>Information is not exempt information unless, in view of the Monitoring Officer, legal privilege could be maintained in legal proceedings.</p>

<p>6. Information which reveals that the Authority proposes;</p> <p>a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>b) to make an order or direction under any enactment.</p>	<p>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</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>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</p>

#### **4.17.13 General access to information rights for Members**

Members are entitled to obtain from the Council information that is reasonably needed to assist them in properly performing their duties. A member has no right to a "roving commission" to examine any and all documents of the Council.

Officers need to respect personal and confidential information and this should not be disclosed to members.

Requests for information should normally be directed to Director or Head of Service concerned.

Members who are in receipt of Special Responsibility Allowances will normally be given specific information in connection with the roles they undertake.

Section 100F of the Local Government Act 1972: Any document which is in the possession or under the control of a principal council and contains material relating to any business to be transacted at a meeting of the council or a committee or sub-committee of the council shall, subject to provisions around exempt information, be open to inspection by any member of the council.

Part 5 of The Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 extend these regulations to the Executive.

Any document (other than in a draft form) which is in the possession, or under the control, of the Executive and contains material relating to:

- any business transacted at a public or private meeting of the Executive.
- any decision taken by an individual member of the Executive
- any key decision taken by an Officer.

will be available for inspection by any member of the Council when the meeting concludes or, where an Executive decision is made by an individual member or a key decision by an Officer, immediately after the decision has been made.

A document is not required to be made available for inspection if it appears to the Monitoring Officer that it discloses exempt or confidential information, is in draft format or is the advice of a political advisor.

#### **4.17.14 Access to information rights for Overview and Scrutiny Committee Members**

Members of the Overview and Scrutiny Committee hold enhanced rights to access information where it relates to their scrutiny responsibilities. These are governed by Part 5 of The Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012: A member of an Overview and Scrutiny Committee is entitled to a copy of a document which is in the possession or under the control of the Executive of that authority and contains material relating to business carried out at a meeting of the executive, or an Executive Decision, including Executive decisions made by officers.

The Executive must provide that document as soon as reasonably practicable and, in any case no later than 10 clear days after the Executive receives the request.

Exempt or confidential information should be provided to the Member in question if it relates to:

- a) an action or decision that that member is reviewing or scrutinising; or
- b) any review contained in the Overview and Scrutiny work programme.

Where the Executive determines that a Member of the Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document, it must provide the Overview and Scrutiny committee with a written statement setting out its reasons for that decision.

#### **4.17.15 Non-Committee Members attending Committees**

Members may attend and observe a meeting of a Committee of the Council of which they are not an ordinary Member.

Members who wish to speak at a Committee meeting in which they are not an ordinary Member must give notice to the Chair of the Committee in advance of the meeting. Speaking at the meeting is at the Chair's discretion.

Members who wish to speak at a Planning Committee meeting in which they are not an ordinary Member of about an application in their ward must give notice to the Chair of the Committee in advance of the meeting. Speaking at the meeting is at the Chair's discretion. Members who have an interest in an application, should speak under public participation rules only.

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). Attending and speaking Part 2 items is at the permission of the Chair, who in certain circumstances may limit the attendance of those in the room (E.g. confidential or staffing matters).

#### **4.17.16 Invited Guests**

Committees and the Executive may invite guests to attend their meetings. 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.

#### **4.18 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 a Full Council Meeting. The Leader and Deputy Leader will decide the format and content of the event. The debate will be chaired by the Chair of Council. The results of the debate will be reported to the next Full Council meeting.

#### **4.19 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.