

## Part 6: Codes, Protocol & Procedures

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# The Members' Code of Conduct

## Introduction and Interpretation

1. (1) This Code applies to you as a Member of Elmbridge Borough Council ("the Council") when you act in your role as a Member.
- (2) You are a representative of the Council and the public will view you as such. Your actions can impact on how the Council as a whole is viewed.
- (3) This Code is based on and is consistent with the principles of public life set out in Section 28 Localism Act 2011: -
  - selflessness
  - integrity
  - objectivity
  - accountability
  - openness
  - honesty
  - leadership
- (4) It is your responsibility to comply with the provisions of this Code.
- (5) In this Code -
  - "meeting" means any meeting of
    - (a) the Council;
    - (b) the Cabinet;
    - (c) any of the Council's or the Cabinet's committees, sub-committees, joint committees, joint sub-committees, or area committees;
  - "Member" includes a co-opted member and an appointed member.

## General Obligations

2. (1) **Do** treat others with respect.
- (2) **Do not** conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by Members.
- (3) **Do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where -
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is -
    - (aa) reasonable and in the public interest;
    - (bb) made in good faith and in compliance with the reasonable requirements of the Council; and

(cc) you have consulted the Monitoring Officer or taken other independent legal advice prior to its release.

- (4) **Do not** prevent another person from gaining access to information to which that person is entitled by law.
- (5) **Do not** use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person an advantage or disadvantage.

3. When using or authorising the use by others of the resources of the Council -

- (1) **Do** act in accordance with the Council's reasonable requirements and policies;
- (2) **Do** ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (3) **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

### **Gifts and Hospitality**

4. (1) **Do** exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member.
- (2) **Do not** accept significant gifts or hospitality from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.
- (3) **Do** register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.

### **Registration of Interests**

5. (1) **Do** notify the Monitoring Officer of your disclosable pecuniary interests<sup>1</sup>, or other interests which the Council has decided are appropriate for registration, within 28 days of being elected or appointed to office.
- (2) **Do** similarly notify the Monitoring Officer of any disclosable pecuniary or other interests not already registered within 28 days of your re-election or re-appointment to office.
- (3) **Do** be aware that disclosable pecuniary interests include not only your interests but also the interests of your spouse or civil partner, a person with whom you are living as husband or wife or a person with whom you are living as if they were a civil partner, so far as you are aware of the interests of that person.
- (4) **Do** be aware that the Council has decided that it is appropriate for you to register and disclose non-pecuniary interests that arise from your membership of or your occupation of a position of general control or management in the following bodies -
  - (i) bodies to which you have been appointed or nominated by the Council;
  - (ii) bodies exercising functions of a public nature;
  - (iii) bodies directed to charitable purposes;
  - (iv) bodies one of whose principal purposes include the influence of public opinion or policy.

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<sup>1</sup> These are specified in the Schedule to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

### **Disclosure of Interests and Participation**

6. (1) **Do** disclose to a meeting at which you are present any disclosable pecuniary interest, or other interest which the Council has decided is appropriate for disclosure.
- (2) **Do** notify the Monitoring Officer of any interest not already registered that is disclosed to a meeting under paragraph 6(1) above within 28 days of the disclosure.
- (3) **Do not** participate in any discussion, or vote, where you have a disclosable pecuniary interest in a matter. **Do** withdraw from the meeting during the consideration of the matter.

### **Predetermination**

7. (1) Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you should not be prohibited from participating in a decision in your political role as a Member.
- (2) However, **do not** place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- (3) When making a decision, **do** consider the matter with an open mind and on the facts before the meeting at which the decision is to be made.

-END-

# Protocol for Member/Officer Relations

## Introduction

This Protocol forms part of the Council's Constitution and results from recommendations of the Improvement and Development Agency (IDeA) that Councils should prepare a Member/Officer Protocol to inform Councillors and Officers of what they might reasonably expect of each other, and is intended to assist both Officers and Members in dealing with issues that may arise when carrying out their respective functions.

It is important to note that this Protocol sits together with a number of other existing and evolving Council procedures and that there may be some overlap between this Protocol and those procedures for example,

- Council Procedure Rules and Orders of Delegation;
- Code of Conduct on Planning Matters;
- Local Code of Conduct for Members;
- Grievance Procedure for Staff; and
- Whistleblowing Procedures for Officers and Members.

In appreciating that this is an evolving document and recognising the rapid rate of change in working practices resulting from the modernisation agenda, the Protocol will need to be reviewed regularly.

## Roles and Responsibilities of Officers

Officers are employed by and serve the whole Council. They advise the Council, its Committees and the Cabinet and ensure that decisions are implemented effectively. They are expected to provide full and impartial professional reports and advice including recommendations for possible action and are required to be politically neutral.

The Chief Executive, Directors and senior Officers need to work closely with Mayor, Leader, members of the Cabinet and Committee Chairmen and Vice-Chairmen if there is to be effective policy development, decision-making and scrutiny. However, such relationships should never be allowed to become so close, as to bring into question the Officers' ability to deal impartially with other Members, individuals or organisations or to compromise their ultimate responsibility to the Council as a whole.

The roles and responsibilities of the Chief Officers and the Statutory Officers i.e. the Chief Executive, the Section 151 Officer (Deputy Chief Executive and Strategic Director) and the Monitoring Officer (Head of Legal Services) are set out in Article 12 of the Councils Constitution.

## Roles and Responsibilities of Councillors

The roles and responsibilities of councillors are set out in Article 2 of the Council's Constitution.

## Access to Officers

With the Council's wide use of e-mail, Members should seek to avoid, as far as possible, entering an Officer's work area and requiring immediate attention. Where an urgent response is required, the Member should seek to telephone the Officer and arrange a convenient meeting if required.

A list of Officers and their contact details is supplied to Members in the Members' Handbook.

When a Member corresponds with an Officer, where the matter raises an issue of policy, the Officer's Manager should be copied in on that correspondence.

Members should not expect action to be taken by Officers where the action would lie outside of the Council's approved budgets or the Policy Framework or outside of the authority given to that Officer by his/her senior Officers.

### **Access to Information and Council Documents**

Members are entitled by virtue of their office to have access to all written material in the possession of the Council, if a need to know can be demonstrated in order to perform the duties of a Councillor. The "need to know" derives primarily from the Member's committee responsibilities although a Member with a legitimate Ward problem will be in the position of being able to plead that there is a necessary need to know to enable him/her to see Council documents that are relevant.

Information given to Members should only be used for the purpose for which it was sought. Both the Code of Conduct and the Council's Procedure Rules (also contained within the Constitution) restrict the disclosure of confidential information provided to Members.

N.B. A Member is not entitled to inspect any document or have access to any information about a matter where to do so would be in breach of the Data Protection Acts 1983 and 1998, as amended from time to time.

Members must be treated equally and Officers must not give any Member preferential treatment in the supply of information.

Any Member or Officer encountering difficulty or uncertainty about access to documents should contact either the Monitoring Officer (Head of Legal Services) or the Chief Executive.

### **Undue Pressure**

In dealing with Officers (especially those at a more junior level), Members need to be aware that it is possible for those Officers to be overawed and feel at a disadvantage and should bear this mind in their approach. Members should also respect the political neutrality of Officers.

A Member should not apply undue pressure on an Officer, either to do anything that he/she is not empowered to do or to undertake work outside normal duties or budgets or to change his/her professional advice. Officers within a Directorate are accountable to their Chief Officer and whilst they should always seek to assist Members, they must not, in doing so go beyond the bounds of whatever authority they have been given by their Chief Officer.

An Officer must not seek to use undue influence on a Member and in this regard it is preferable that personal friendships with Members are not formed. Any Officer who is personally connected to any Member should notify his/her Chief Officer in writing.

### **In Council/Cabinet/Committee**

A wide range of Officers attend meetings of the Council, its Committees and Cabinet in order to assist the Chairman and other Members with factual information on items of business being considered. Both Officer and Member comments should be addressed through the Chairman of the meeting, and it must be remembered that

particularly at Council meetings, Officers do not have a right to reply. Consequently Members should have regard to this position when referring to Officers at meetings of the Council.

Members and Officers will treat each other with mutual respect and whilst constructive criticism is not unacceptable, where Members disagree with Officer comments or actions at these meetings, it is in the interest of good relations that those views are given in a carefully considered and courteous way.

### **Use of Council Resources**

The Council provides a number of resources for Members within the Members' Room, for example, IT facilities, telephone, facsimile and photocopying facilities, business cards and Members' Room headed paper. The only basis on which the Council can provide these services is to assist Members in discharging their role as Members of the Council.

Members using personal computers supplied by the Council will be required to sign up to and observe the Council's IT Security Policy.

### **Publicity and the Media**

Contact with the media on issues related to the Council, or to Council business is handled through the Corporate Communications Manager.

Any Member who approaches the media purporting to speak on behalf of the Council on any item involving or affecting the Council should only do so having first consulted the Corporate Communications Manager.

Members and Officers should note that particular restrictions apply about publicity issued during election periods and should contact the Corporate Communications Manager if in doubt.

### **Breaches of the Protocol**

In recognising that this Protocol is a guideline document, minor breaches may not involve a sanction against the Member or Officer concerned. However, regular or more serious breaches may involve disciplinary action against the Officer through the Council's Disciplinary Procedure or against the Member through the Audit and Standards Committee.

### **Conclusion**

This Protocol is intended to build on the arrangements and good relations that already exist between Members and Officers and to act as a reminder that mutual respect and understanding are keystones to safeguarding the integrity of the Council, its Members and Officers.

# Individual Cabinet Member Decision Making Protocol

## Introduction

Individual Cabinet Members may make decisions if the nature of the decision falls within the requirements of the attached Schedule; otherwise the Cabinet must take the decision. In order to preserve transparency and accountability in the individual decision-making process the same procedures must be followed in terms of preparing a report and the level of information within it as with a decision by the Cabinet itself.

The administration of Individual Cabinet Member Decision Making will be undertaken by the Executive and Member Services Division in the same way as for Cabinet decisions and in accordance with the Protocol on Report and Agenda Preparation.

## The Process

If a decision is capable of being taken by an individual Cabinet Member, the following process must be followed:

1. A fixed Schedule of Dates when Cabinet Members will make individual decisions will be published and included on the Forward Plan;
2. Draft reports must be prepared, either by the Officers or by other Members, in the format shown below. Reports must contain the same level of information as would be contained in reports to the Cabinet and must also consider alternative options and the reasons for selecting the preferred option;
3. The Chief Executive, Strategic Director of Resources, Head of Legal Services and other relevant Officers must see all draft reports and be given the opportunity to comment thereon;
4. Final Reports will be prepared and must be available for publication to allow a minimum of five clear working days before the decision is to be taken to satisfy the requirements of the Local Government (Access to Information) Act 1985;
5. Reports will be made publicly available in the same way as Cabinet agenda;
6. Individual Cabinet Members will take decisions at the Civic Centre on the appointed day and in accordance with a published Schedule of Dates. Decisions cannot be taken over the telephone, by letter or by e-mail;
7. When decisions are taken the relevant Director and/or senior Officers will be present together with a Legal Officer, Committee and Member Services Officer and where appropriate, Finance Officer;
8. Meetings will be open to the press and public, unless the report contains exempt/confidential information as defined in the Local Government Act 1972 (as amended);
9. Decisions will be recorded in the same way as Cabinet minutes and will record the reasons for the decision and any alternative options considered and rejected by the decision-maker;
10. Decisions will be published within 4 working days of being made in the same way as Cabinet minutes;
11. Decisions will be subject to call-in and therefore will not be capable of implementation until the expiry of 9 working days on the basis that they are not called in;



12. Decisions which are called-in will be dealt with as if they were Cabinet decisions which had been called-in and will be referred to the Overview and Scrutiny Committee in accordance with established procedure;  
and
13. The minutes of decisions taken in accordance with this process will appear as Matters of Report on the agenda for the next Ordinary Meeting of the Council.

**Committee:**                    **Individual Cabinet Member Decision Making**

**Date of meeting:**            \_\_\_\_\_

<b>Subject:</b>	
<b>Lead Officer:</b>	
<b>Portfolio Holder:</b>	
<b>Link to Council Priorities:</b>	
<b>Exempt information:</b>	
<b>Delegated status:</b>	
<b>Key Decision:</b>	

**EXECUTIVE SUMMARY:**

**RECOMMENDATION:**

**REPORT:**

Including any options considered and reasons why the preferred option has been selected.

**Financial implications:** *[Consult Strategic Director of Resources and Head of Finance]*

**Environmental / Sustainability implications:**

**Legal implications:** *[Consult Head of Legal Services]*

**Equality Implications:**

**Risk Implications:**

**Community Safety Implications:**

**Principle Consultees:**

**Background papers:** *[These must be listed]*

**Enclosures/Appendices:** *[These must be clearly listed and marked 'A', 'B' etc.]*

**Contact details:**

RESPONSIBILITY FOR CABINET FUNCTIONS EXERCISED BY INDIVIDUAL CABINET MEMBERS

Who is responsible (1)	Function (2)	Limitation (3)
<p>Individual member of the Cabinet in relation to the functions set out in column (2) and subject to the limitations in column (3)</p> <p>The Cabinet member will be the Member allocated the appropriate responsibilities (listed below) by the Leader or Cabinet (except that where that Member is unable to act due to conflict of interest, illness or absence); another member of the Cabinet may exercise the function on their behalf.</p> <p><b>Leader</b></p> <ul style="list-style-type: none"> <li>• Presents the big picture</li> <li>• Revenue &amp; Capital Budgets – Annual Budget Statement</li> <li>• Overall priorities and policy issues</li> <li>• Chairs the Cabinet and presents the Forward Plan of work</li> </ul> <p><b>Community Development</b></p> <ul style="list-style-type: none"> <li>• Community Leadership</li> <li>• Community Strategy</li> <li>• Joint Community Working and Partnership (County Council, Police etc)</li> <li>• Neighbourhoods &amp; Social Exclusion</li> <li>• Community Safety including CCTV</li> <li>• Local Area Agreements / Public Service Agreements</li> <li>• Community Engagement &amp; Consultation</li> <li>• Economic Well-being and Business Network / Liaison</li> <li>• Family Support</li> </ul> <p><b>Corporate Development</b></p> <ul style="list-style-type: none"> <li>• Organisational Improvement &amp; Performance Management</li> <li>• Communications</li> <li>• Equalities &amp; Diversity</li> <li>• Personnel (excluding appointments &amp; dismissals)</li> <li>• Emergency Planning Health &amp; Safety</li> <li>• Members’ Services</li> <li>• Customer Services</li> <li>• Electoral Services</li> </ul>	<p>Any Cabinet function relating to:</p> <ul style="list-style-type: none"> <li>• Agreeing annual reports</li> <li>• Monitoring performance of services</li> <li>• Approving bids for funds from external bodies</li> <li>• Agreeing concordats or statements of intent with other parties</li> <li>• Agreeing annual service plans</li> <li>• Agreeing responses to consultation documents</li> <li>• Approving proposals for public consultation</li> <li>• Acknowledging / being aware of the implications of new / proposed legislation</li> <li>• The write-off of irrecoverable debts (excepting debts in respect of council tax or non-domestic rates which are delegated to an officer) between £2,000 and £10,000 and which are covered by the Council’s provision for bad debts</li> <li>• The approval of terms for miscellaneous acquisitions and disposals of property up to a value of £100,000</li> <li>• The approval of terms for property disposal by way of grant or assignment of lease</li> <li>• The approval of minutes of advisory groups, working groups and other similar bodies</li> <li>• References up from overview and scrutiny committees concerning performance management and related issues</li> </ul>	<p>All provisions listed in this column apply to all the functions listed in column (2). In all cases the decision must be consistent with the Budget and Policy Framework and corporate strategies.</p> <p>The following matters are not included in the delegation:</p> <ul style="list-style-type: none"> <li>• Those properly reserved to the Council as part of the Budget and Policy Framework</li> <li>• Those delegated to Officers under the Scheme of Delegation to Officers or to an area committee or other joint arrangement</li> <li>• Those which the Leader and/or the Cabinet have reserved to the Cabinet or are subject to any guidance they have given</li> <li>• Those involving approval of service plans or policies for particular services.</li> </ul> <p>The exercise of the function is also subject to:</p> <ul style="list-style-type: none"> <li>• The provisions of the Constitution including the Financial and Contract Procedure Rules</li> <li>• Consultation with other Cabinet members as appropriate</li> <li>• The Protocol on Cabinet decision making</li> <li>• The right of the Member concerned to refer the matter to the Cabinet if they so wish</li> <li>• The matter being referred to the Cabinet where there is a dispute between the Member authorised to take the decision and another Cabinet member.</li> </ul>

<p><b>Environment</b></p> <ul style="list-style-type: none"> <li>• Waste Management</li> <li>• Environmental well-being</li> <li>• Environmental Health and Licensing</li> <li>• Street Cleaning Services</li> <li>• Sustainability including Energy and Climate Change</li> </ul>	<ul style="list-style-type: none"> <li>• The review of plans and strategies not forming part of the Council's policy framework</li> <li>• Consideration of reports from officers and issuing of directions in matters of routine service management not involving key decisions</li> </ul>	
<p>Who is responsible (1)</p>	<p>Function (2)</p>	<p>Limitation (3)</p>
<p><b>Highways &amp; Transport</b></p> <ul style="list-style-type: none"> <li>▪ Liaison with Highway Authority</li> <li>▪ Off Street Car Parking</li> <li>▪ Public Transport</li> <li>▪ Traffic Management</li> </ul> <p><b>Housing</b></p> <ul style="list-style-type: none"> <li>▪ Housing Strategy</li> <li>▪ Allocation of Housing Enabling Funds</li> <li>▪ Overview of Housing Services</li> <li>▪ Housing Benefits</li> <li>▪ Promotion of Affordable Housing</li> <li>▪ Liaison with Registered Social Landlords</li> <li>▪ Housing Policy</li> <li>▪ Housing Advice</li> <li>▪ Homelessness</li> <li>▪ Grants – Private and Disability (e.g. Disabled Facilities Grants)</li> </ul> <p><b>Leisure &amp; Culture</b></p> <ul style="list-style-type: none"> <li>▪ Arts &amp; Culture</li> <li>▪ Sport &amp; Leisure</li> <li>▪ Parks &amp; Recreation</li> <li>▪ Promoting Healthy Lifestyles</li> <li>▪ Youth</li> <li>▪ Children's Issues (including Member Champion for Child Protection)</li> <li>▪ Museums</li> <li>▪ Public Halls</li> <li>▪ Cemeteries</li> <li>▪ Tree Risk Strategy</li> <li>▪ Tourism</li> </ul> <p><b>Planning Services</b></p> <ul style="list-style-type: none"> <li>▪ Planning Policy including Local Plan Planning Development Framework</li> <li>▪ Development Control including Tree Preservation Orders</li> <li>▪ Design Champion Role</li> <li>▪ Building Control</li> <li>▪ Street Naming [Note – operation under ISD although CIPFA guidance indicates inclusion under Regulatory]</li> <li>▪ Section 106 Small Scale Site Tariff Spending Programmes</li> <li>▪ Land Charges</li> </ul>	<p>Additions to Interim List of specific spending programmes</p>	

<p><b>Resources</b></p> <ul style="list-style-type: none"> <li>▪ Value for Money</li> <li>▪ Financial Management including Treasury Management and Insurance</li> <li>▪ Local Taxation</li> <li>▪ Strategic Risk Management</li> <li>▪ Audit and Corporate Governance</li> <li>▪ ICT</li> <li>▪ Information Security</li> <li>▪ Asset Management and Property (including Car Parks and Public Conveniences)</li> <li>▪ Legal</li> <li>▪ Procurement Champion</li> </ul> <p><b>Social Affairs</b></p> <ul style="list-style-type: none"> <li>▪ Health Matters and Liaison with relevant bodies</li> <li>▪ Voluntary Sector Liaison and Support</li> <li>▪ Services for Older People and Disabled People (Meals on Wheels, Community Transport, Community Alarm and Telecare and Elmbridge Relief Carers Scheme)</li> <li>▪ Centres for the Community</li> </ul>		
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# Officers' Code of Conduct

## Introduction

The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code outlines existing laws, regulations and conditions of service and provides further guidance to assist Elmbridge Borough Council and its employees in their day-to-day work. The Code is produced in the light of the challenges that employees face in the new and more commercially orientated environment.

This Code is based upon a Code that has been approved by the local authority associations in England and Wales and the Local Government Management Board (LGMB).

The Code is voluntary for local authorities to adopt but sets out the minimum standards that should apply. The aim of the Code is to lay down guidelines for local government employees which will help maintain and improve standards and protect employees from misunderstanding or criticism.

## Who the Code is Aimed At

This Code applies to all employees of Elmbridge Borough Council.

Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others. Activities carried out by employees acting as members of companies or voluntary organisations should be subject to the minimum standards within this Code.

### 1. Standards

1.1 Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality. Employees will be expected, through the agreed Whistleblowing Procedure and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure. The Whistleblowing Procedure can be obtained through personnel, internal audit or the Head of Legal Services and is available on the Council's Intranet.

### 2. Disclosure of information

2.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to Members, Auditors, government departments, service users and the public. The authority itself may decide to be open about other types of information. Employees must be aware of which information Elmbridge is and is not open about, and act accordingly.

2.2 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the authority should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

### 3. Political neutrality

3.1 Employees serve the authority as a whole. It follows they must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.

3.2 Employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.

3.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.

#### 4. **Relationships**

##### 4.1 *Councillors*

Employees are responsible to the authority through its senior managers. For some, their role is to give advice to Councillors and senior managers and all are there to carry out the authority's work. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should therefore be avoided. Elmbridge has adopted a Protocol on Member/Officer relations contained within the Constitution which employees are expected to take into account in their dealings with Councillors.

##### 4.2 *The Local Community and Service Users*

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the authority.

##### 4.3 *Contractors*

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and in accordance with the Council's Contract and Financial Procedure Rules, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

4.4 Employees who engage or supervise contractors or have an other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to the appropriate manager.

#### 5. **Appointment and Other Employment Matters**

5.1 Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him / her.

5.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, etc.

#### 6. **Outside Commitments**

6.1 Some employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the authority's interests.

6.2 Employees should follow their authority's rules on the ownership of intellectual property or copyright created during their employment.

#### 7. **Personal interests**

7.1 Employees must declare to an appropriate manager any financial or non-financial interest that they consider could bring about conflict with the authority's interest, and complete the necessary declaration form which will be kept by the Head of Legal Services.

7.2 Employees should declare to an appropriate manager membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.

## 8. **Equality Issues**

8.1 All employees should ensure that policies relating to equality issues as agreed by the authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

## 9. **Separation of Roles During Tendering**

9.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

9.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

9.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

9.4 Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.

9.5 Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

## 10. **Corruption**

10.1 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

## 11. **Use of Financial Resources**

11.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

## 12. **Gifts and Hospitality**

12.1 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the authority should be seen to be represented. They should be properly authorised and recorded.

12.2 When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the authority.

12.3 Employees should not accept significant personal gifts from contractors and outside suppliers, although the authority may wish to allow employees to keep insignificant items of token value such as pens, diaries, etc. Employees should not in any circumstances accept gifts from suppliers if the provision of the gift may reasonably be perceived as an incentive to purchase.

12.4 When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.



- 12.5 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the authority gives consent in advance and where the authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc are required, employees should ensure that authorities meet the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.
- 12.6 Employees accepting gifts or hospitality will be expected to complete the Gifts and Hospitality Register held within their Directorate, setting out the nature of the hospitality or gift received, who it was received from and its approximate value.

### **13 Bribery Act 2010**

- 13.1 The Bribery Act 2010 is intended to combat bribery and corruption in both the public and private sectors. The Council is required to have "adequate procedures" in place to prevent bribery. Employees are at risk of prosecution if they conduct themselves in a way that may be seen as condoning bribery. Employees should be aware that "passive" bribery is a specific offence and includes requesting, agreeing to receive or accepting an advantage. There are serious penalties for offences committed under the Act, including a maximum jail sentence of 10 years for individuals engaged in bribery.
- 13.2 Accordingly, employees should refrain from any conduct that may appear to engage the Act. Employees should not, for example, accept any payment, gift or hospitality that is, or could be perceived to be, "facilitative" of an action that an employee would normally carry out, such as granting a licence or approving a planning application.

### **14. Sponsorship – Giving and Receiving**

- 14.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 14.2 Where the authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

# Local Code of Corporate Governance

Elmbridge Borough Council is committed to the principles of good corporate governance and wishes to confirm its ongoing commitment and intentions through the development, adoption and continued maintenance of a Local Code of Corporate Governance, as recommended in the CIPFA/SOLACE guidance on corporate governance.

This document, therefore, sets out and describes the Council's commitment to corporate governance, and identifies the arrangements that have been made, and will continue to be made, to ensure its effective implementation and application in all aspects of the Council's work.

Corporate governance comprises of the systems, processes, cultures and values, by which the organisation is directed and controlled and through which it accounts to, engages with and, in the case of a local authority, leads the community.

Good governance enables Elmbridge Borough Council to effectively implement its vision in accordance with its values and to engage effectively with its citizens and service users and ensure good outcomes for them.

## The Principles of Governance

Four key business roles for local authorities have been defined by CIPFA/SOLACE as:

- Effective partnership and community leadership;
- Provision of high quality services;
- Stewardship and value for money; and
- Building communities.

Elmbridge Borough Council operates a governance framework, which brings together and reflects legislative requirements, governance principles and sound management processes. The Council will apply the six core principles identified by CIPFA/SOLACE in performing its key roles and other duties as a local authority. These core principles are:

1. Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area.
2. Members and officers working together to achieve a common purpose with clearly defined functions and roles.
3. Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.
4. Taking informed and transparent decisions, which are subject to effective scrutiny and managing risk.
5. Developing the capacity and capability of members and officers to be effective.
6. Engaging with local people and other stakeholders to ensure robust public accountability.

The attached document, at [Appendix A](#), identifies the supporting principles for each of the six core principles together with the specific requirements, showing how the Council will achieve and evidence good governance.

## Annual Review and Reporting

The Head of Legal Services and the Head of Internal Audit Partnership will review the performance of the Council against the Local Code and the standards laid down in the CIPFA/SOLACE governance framework. They

will report annually to Members on the adequacy and effectiveness of the Local Code and the extent of compliance with it.

The outcome of the review will be reported in the form of an Annual Governance Statement on the extent of which the Council complies with this Code and how it has monitored the effectiveness of its governance arrangements.

The governance statement will be prepared in accordance with the framework recommended by CIPFA/SOLACE.

**ELMBRIDGE BOROUGH COUNCIL –  
LOCAL CODE OF CORPORATE GOVERNANCE**

<b>1 Focusing on the purpose of the Council and on outcomes for the community and creating and implementing a vision for the local area</b>	
<b>Supporting Principles</b>	<b>Specific Requirements</b>
Exercise strategic leadership by developing and clearly communicating the Council’s purpose and vision and its intended outcome for citizens and service users.	<ul style="list-style-type: none"> <li>▪ A clear vision of the Council’s purpose and outcomes for citizens and service users that is clearly communicated, both within the Council and to external stakeholders.</li> <li>▪ Arrangements are made for review of the Council’s vision and implications for the Council’s governance arrangements.</li> </ul>
Ensuring that the community receives a high quality of service either directly, or in partnership.	<ul style="list-style-type: none"> <li>▪ Arrangements are in place for measuring the quality of Council services provided (including those delivered in partnership) and ensuring they are delivered in accordance with Elmbridge Borough Council’s objectives and values and represent the best use of resources.</li> <li>▪ Put in place effective arrangements to identify and deal with failure in service delivery.</li> </ul>
Ensuring that the Council makes best use of resources and that taxpayers and service users receive excellent value for money.	<ul style="list-style-type: none"> <li>▪ Decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available.</li> <li>▪ Publish an annual report on a timely basis to communicate the Council’s activities and achievements, its financial position and performance.</li> </ul>

<b>2 Members and officers working together to achieve a common purpose with clearly defined functions and roles</b>	
<b>Supporting Principles</b>	<b>Specific Requirements</b>
Ensuring effective leadership throughout the Council and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function.	<ul style="list-style-type: none"> <li>▪ Clearly defined and documented roles and responsibilities for executive, non-executive, scrutiny and officer functions with clear delegation arrangements and protocols for effective communication.</li> </ul>
Ensuring that a constructive working relationship exists between Committee Members and Officers and that the responsibilities of Members and Officers are carried out to a high standard.	<ul style="list-style-type: none"> <li>▪ Determine a scheme of delegation including a formal schedule of those matters specifically reserved for collective decision of the Council, taking account of relevant legislation, and ensure that it is monitored and updated when required.</li> </ul>

**2 Members and officers working together to achieve a common purpose with clearly defined functions and roles**

Supporting Principles	Specific Requirements
	<ul style="list-style-type: none"> <li>▪ Clearly defined and documented roles and responsibilities for executive, non-executive, scrutiny and officer functions with clear delegation arrangements and protocols for effective communication.</li> <li>▪ The Chief Executive should be responsible and accountable to the Council for all aspects of operational management.</li> <li>▪ A senior Officer (the S151 Officer) should be responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control.</li> <li>▪ A senior Officer should be responsible to the Council for ensuring adherence to agreed procedures and compliance with Statutes and Regulations.</li> </ul>
<p>Ensuring relationships between the Members, its partners and the public are clear so that each knows what to expect of the other.</p>	<ul style="list-style-type: none"> <li>▪ Develop protocols to ensure effective communication between Members and Officers in their respective roles.</li> <li>▪ Ensure that effective mechanisms exist to monitor service delivery.</li> <li>▪ Ensure that the organisation’s vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated.</li> <li>▪ When working in partnership, ensure that members are clear about their roles and responsibilities both individually and collectively.</li> <li>▪ When working in partnership - (a) Ensure that there is clarity about the legal status of the partnership (b) Ensure that representatives of organisations understand the extent of their authority to make decisions on behalf of the Council.</li> </ul>

<b>3 Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour</b>	
<b>Supporting Principles</b>	<b>Specific Requirements</b>
Ensuring Council Members and Officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance.	<ul style="list-style-type: none"> <li>▪ Codes of Conduct defining standards of behaviour for Members and Officers in place which conforms with appropriate ethical standards, and are communicated and embedded across the Council.</li> <li>▪ Put in place arrangements to ensure that Members and Officers of the Council are not influenced by prejudice, bias or conflicts of interest.</li> <li>▪ Arrangements to ensure compliance with relevant laws and regulations, internal policies and procedures and to ensure that expenditure is lawful with all reports considered for legal issues before submission to Members.</li> </ul>
Ensuring that organisational values are put into practice and are effective.	<ul style="list-style-type: none"> <li>▪ Develop and maintain shared values including leadership values for both the organisation and staff reflecting public expectations, and communicate these with Members, officers, the community and partners.</li> <li>▪ Put in place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice.</li> <li>▪ Well publicised arrangements for whistle-blowing and for receiving and investigating complaints are in place.</li> </ul>

<b>4 Taking informed and transparent decisions which are subject to effective scrutiny and managing risk</b>	
<b>Supporting Principles</b>	<b>Specific Requirements</b>
Being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny.	<ul style="list-style-type: none"> <li>▪ Procedural rules and supporting manuals and guidance (which are reviewed and updated as appropriate) that support transparency in decision making, define how the Council takes decisions and uses its processes and controls to manage risks while using its legal powers to the full benefit of the Elmbridge community.</li> <li>▪ Develop and maintain open and effective mechanisms for documenting evidence for decisions and for recording the criteria, rationale and considerations on which decisions are based.</li> </ul>

**4 Taking informed and transparent decisions which are subject to effective scrutiny and managing risk**

Supporting Principles	Specific Requirements
	<ul style="list-style-type: none"> <li>▪ Develop and maintain an effective, independent audit committee, which is independent of the executive and scrutiny functions.</li> <li>▪ Ensure that effective, transparent and accessible arrangements are in place for dealing with complaints.</li> </ul>
<p>Having good-quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs.</p>	<ul style="list-style-type: none"> <li>▪ Ensure that those making decisions for the Council or partnerships are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications.</li> <li>▪ Ensure that proper professional advice on matters that have legal or financial implications is available and recorded in advance of decision making and used appropriately.</li> </ul>
<p>Ensuring that an effective risk management system is in place.</p>	<ul style="list-style-type: none"> <li>▪ Ensure that risk management is embedded into the culture of the Council with members and managers at all levels recognising that risk management is part of their job requirement.</li> <li>▪ Ensure that effective arrangements for whistle-blowing are in place to which officers, staff and all those contracting with or appointed by the Council have access.</li> </ul>
<p>Using their legal powers to the full benefit of the citizens and communities in their area.</p>	<ul style="list-style-type: none"> <li>▪ Actively recognise the limits of lawful activity placed on them and to utilise their powers to the full benefit of their communities.</li> <li>▪ To observe both the specific requirements of legislation and the general responsibilities place on authorities by public law.</li> </ul>

**5 Developing the capacity and capability of members and officers to be effective**

Supporting Principles	Specific Requirements
<p>Making sure that Members and Officers have the skills, knowledge, experience and resources they need to perform well in their roles</p>	<ul style="list-style-type: none"> <li>▪ Arrangements to provide the resources, training and other support for Members and senior Officers in relation to their roles, including their governance roles, and opportunities to update their knowledge on</li> </ul>

<b>5 Developing the capacity and capability of members and officers to be effective</b>	
<b>Supporting Principles</b>	<b>Specific Requirements</b>
	<p>a regular basis.</p> <ul style="list-style-type: none"> <li>▪ Provide induction programmes tailored to individual needs.</li> </ul> <p>Ensure that the statutory Officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the Council.</p>
Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group	<ul style="list-style-type: none"> <li>▪ Assess the skills required by Members and Officers and make a commitment to develop those skills to enable roles to be carried out effectively.</li> <li>▪ Develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge.</li> <li>▪ Ensure that effective arrangements are in place for reviewing the performance of the executive as whole and individual Members and have in place a provision for addressing any training or development needs.</li> </ul>

<b>6 Engaging with local people and other stakeholders to ensure robust public accountability</b>	
<b>Supporting Principles</b>	<b>Specific Requirements</b>
Taking an active and planned approach to dialogue with accountability to the public to ensure effective and appropriate service delivery whether directly by the authority, or in partnership.	<ul style="list-style-type: none"> <li>▪ Clear channels of communication with all sections of the community and other stakeholders, ensuring accountability and open consultation and encouraging individuals from all sections of the community to engage with, contribute to and participate in the work of the Council.</li> <li>▪ Hold meetings in public unless there are good reasons for confidentiality.</li> <li>▪ Ensure that arrangements are in place to enable Committee to engage with all sections of the community effectively.</li> <li>▪ On an annual basis, publish a performance plan giving information on vision, strategy, plans and financial statements and</li> </ul>



<b>6 Engaging with local people and other stakeholders to ensure robust public accountability</b>	
<b>Supporting Principles</b>	<b>Specific Requirements</b>
	<p>information about outcomes, achievements and user satisfaction in the previous period.</p> <ul style="list-style-type: none"> <li>▪ Ensure that the Council is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so.</li> </ul>
<p>Making best use of human resources by taking an active and planned approach to meet responsibility to staff.</p>	<ul style="list-style-type: none"> <li>▪ Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making.</li> </ul>

# Elmbridge Borough Council

## Petitions Scheme

### 1. Introduction

- 1.1 This is the Petitions Scheme for Elmbridge Borough Council made under Section 11(1) of the Local Democracy, Economic Development and Construction Act, 2009. The Scheme was approved at the full meeting of the Council on 28<sup>th</sup> July 2010 and is available on the Council's website: [www.elmbridge.gov.uk](http://www.elmbridge.gov.uk)
- 1.2 The Council welcomes petitions, either in paper form or by way of the e-Petition facility, and recognises that petitions are one way in which people can let us know their concerns. The Council welcomes petitions from all people resident, working or studying in the Borough. The Council provides a number of ways in which petitions may be considered, depending on the subject, the actions sought and the number of signatories. The purpose of this Scheme is to establish a clear process for petitions submitted to the Council to be handled in accordance with the relevant legislation. All petitions sent or presented to Elmbridge Borough Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition.
- 1.3 Before considering whether or not to raise a petition to Elmbridge Borough Council, you may want to discuss your issue with your local Ward Councillor who may be able to help you with it or explain how to make representations on a particular subject to the right person at the Borough Council. Details on how to contact your local Borough Councillor are available on the Council's website: [www.elmbridge.gov.uk](http://www.elmbridge.gov.uk)

### 2. Guidelines for submitting a petition

- 2.1 Petitions submitted to the Council must:
- set out a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take;
  - be initiated by a Petition Organiser whose contact details, including address, have been supplied to the Council;
  - include the name and address and signature of any person supporting the petition;
  - relate to the Council's functions or to wider issues applicable to the area as served by the County Council;
  - not be abusive, defamatory, frivolous or vexatious;
  - not relate to specific planning or licensing matters, for which other established processes exist; legal proceedings; contract or tendering procedures or matters relating to individual Members of the Council which are the subject of referral to the Audit and Standards Committee;
  - obtain a minimum of 50 valid signatories, including verifiable details that they live, work or study in the Council area. Signatures from others (e.g. tourists) may be considered as valid if relevant to the issue of the petition;
  - not be a duplicate or near-duplicate or a similar petition that has been received or submitted within the previous 12 month period and will be taken in order of the earliest received.
- 2.2 Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website.
- 2.3 Please note that in the six weeks before an election, local authorities cannot publish any material which may support any Political party or a point of view which may be associated with any Political

party – if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

### **3. How to submit a Petition**

3.1 Petitions may be submitted to the Council in the following ways:

- in paper format;
- electronically by e-mail;
- electronically, through the Council's own e-Petition facility;

Paper petitions can be sent to:

Head of Executive & Member Services  
Elmbridge Borough Council  
Civic Centre  
High Street  
Esher  
Surrey KT10 9SD  
Website: [www.elmbridge.gov.uk](http://www.elmbridge.gov.uk)  
Telephone: 01372 474173

Or / and an online e-Petition can be created, signed and submitted online by following this link

<http://www.elmbridge.gov.uk/Council/committees/petitionsscheme.htm>

3.2 In every case, a Petitions Organiser must identify his / her self and provide such details as well as assist the Council or other service providers to make contact with regard to the submitted petition.

### **4. What will the Council do when it receives my petition?**

4.1 An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. In respect of e-petitions, the acknowledgement will also be published on our website.

4.2 If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested or that a specific course of action has already been agreed to be taken and the petition will be closed. If, when received, the petition has enough signatures to trigger a debate at a full Meeting of the Council, or a senior officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

4.3 A petition may not relate to planning or licensing application matters; legal proceedings; contract or tendering procedures or matters relating to individual Members of the Council which are the subject of referral to the Audit and Standards Committee; a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as Council Tax banding and non-domestic rates, as other established procedures apply.

4.4 To ensure the Council understands the level of local support for a petition, it reserves the right to seek to verify each signature appended to a petition. This can be significant when establishing whether a petition has obtained the requisite number of signatures to trigger specific processes.

4.5 To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website, except in cases where this

would be inappropriate. When you sign an e-petition you can elect to receive information by e-mail. We will not send you anything that is not relevant to the e-petition you have signed, unless you choose to receive other e-mails from us.

- 4.6 In the event that a petition is in response to an invitation from the Council for comments as part of a consultation on a particular matter, for example, on a proposed policy affecting the Borough, a petition in this regard will be reported to the meeting, person or body with responsibility for taking the decision.

## **5. How will the Council respond to petitions?**

- 5.1 Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:
- taking the action requested in the petition;
  - considering the petition at a full Meeting of the Council [minimum of 3,900 signatures]
  - submission of petition to Cabinet meeting or Individual Cabinet Member Decision Making, as appropriate and also having regard to Executive functions [minimum of 50 signatures];
  - referring the petition for consideration by the Council's Overview and Scrutiny Committee, requesting a senior officer to give evidence [minimum 2,600 signatures];
  - holding an inquiry into the matter;
  - undertaking research into the matter;
  - holding a public meeting;
  - holding a consultation;
  - holding a meeting with petitioners;
  - calling a referendum;
  - writing to the petition organiser setting out the Council's views about the request in the petition;
  - in matters that are dealt with by delegated authority, the responsible officer would respond to the petition.
- 5.2 If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you. You can find more information on the range of services for which the Council is responsible on the Council's Website: [www.elmbridge.gov.uk](http://www.elmbridge.gov.uk)
- 5.3 If your petition is about something that a different Council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. Petitions which relate to Surrey County Council will be forwarded to the County Council to be dealt with under its Petition Scheme. In any event we will always notify the petition organiser of the action we have taken.
- 5.4 Where the petition does not have the prescribed number of signatures to trigger the petitioner's intention of a debate at a full Meeting of the Council or Senior Officer attendance at a Committee (see below), the Head of Executive & Member Services will determine the most appropriate course of action following discussion as necessary with the relevant Cabinet Member and/or Officer responsible for the service which is the subject of the petition.
- 5.5 Petitions Presented to Cabinet – Where a petition meets the requirements for submission to the Cabinet for consideration, the petition organiser will be given five minutes to address the Cabinet on the subject matter of the petition.

## **6. Full Meeting of the Council Debates**

- 6.1 If a petition contains more than 3,900 signatures it will be debated by a full Meeting of the Council unless it is a petition asking for a senior council officer to give evidence at a meeting that is open to the public. This means that the issue raised in the petition will be discussed at a meeting that all Councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given five minutes to address the Council on the subject matter of the petition. The relevant Cabinet Portfolio Holder will then be given five minutes for a right of reply and the petition will then be discussed by the Council for a maximum of 30 minutes. The relevant Cabinet Portfolio Holder has a further right of reply, for no more than five minutes, at the end of the debate on the matter. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant Committee. Where the issue is one on which the Council's Executive, namely the Cabinet, are required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of the decision as soon as practicable following the decision having been made. This confirmation will also be published on the Council's website.

## **7. Officer evidence**

- 7.1 Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected Members to enable them to make a particular decision.
- 7.2 If your petition contains at least 2,600 signatures, the relevant senior officer will give evidence at a meeting of the Council's Overview and Scrutiny Committee. A list of the senior staff that can be called to give evidence can be found here <http://elmbridge.gov.uk/Council/cos.htm>
- 7.3 The above links to the following officers: Chief Executive, Strategic Director of Resources, Strategic Director of Services or Head of Division. The Council reserves the right to substitute a more appropriate officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The Committee may also decide to call the relevant Councillor to attend the meeting. Committee Members will ask the questions at this meeting, but you will be able to suggest questions to the Chairman of the Overview and Scrutiny Committee by e-mailing: [overviewandscrutiny@elmbridge.gov.uk](mailto:overviewandscrutiny@elmbridge.gov.uk) at least three clear working days before the meeting.

## **8. E-petitions**

- 8.1.1 The Council welcomes e-petitions which are created and submitted through our website <http://petitions.elmbridge.gov.uk>
- 8.1.2 E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide us with their name, postal address and email address. Unless advised to the contrary, an e-petition will normally be open for signatures for 90 days from the day it is published on-line.
- 8.2 When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature. As each e-petition is published, the Council will log each one and publish details on its website.
- 8.3 The Council requires signatories to append their e-mail addresses and their postcodes; failure to provide this information may lead to the signature not being counted. Individual contact details will not be visible to others on the Council's e-petition facility.

- 8.4 If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.
- 8.5 When an e-petition has closed for signature, it will automatically be submitted to the Head of Executive & Member Services to process. In the same way as a paper petition, you will receive an acknowledgement within 10 working days. If your petition has the minimum number of signatures required for a full Meeting of the Council debate, or for an officer to be called to give evidence, please also see the relevant sections above.
- 8.6 A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgement and response will also be published on this website.

## **9. How do I 'sign' an e-petition?**

- 9.1 You can see all the e-petitions currently available for signature here <http://petitions.elmbridge.gov.uk>
- 9.2 When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

## **10. What can I do if I feel my petition has not been dealt with properly?**

- 10.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to request a review of the steps that the Council has taken in response to the petition. Such a request should be made in writing within 28 days of the dispatch of the formal response to the petition organiser, providing a short explanation of the reasons why the Council's response is not considered to be adequate.
- 10.2 The Council will determine the relevant Committee to carry out the review, usually the Overview and Scrutiny Committee. The Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council's Cabinet or relevant Cabinet Member as appropriate or arranging for the matter to be considered at a full Meeting of the Council.
- 10.3 Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

## **11. Procedure for Deputations**

### **11.1 What is a deputation?**

A deputation is a group of at least three people, who live or work within the Borough who wish to express their views on a particular topic at a meeting. A spokesperson may address the Cabinet, or a Committee for a maximum of three minutes. Other members of the deputation may attend as observers.

### **11.2 Which Committee?**

Cabinet and Committees may receive a deputation on any matter within their terms of reference, except in the case of Planning Committee, when deputations shall not be received in respect of development control matters which are dealt with under separate guidelines.

**11.3 How to get a deputation heard by the Cabinet or a Committee**

Deputations shall be made in writing, signed by a minimum of three people, and delivered to the Chief Executive no less than 10 clear working days prior to the meeting they wish to address. This requirement is reduced to 3 clear working days notice if the deputation has arisen as a result of viewing an agenda and directly relates to one of the agenda items.

**11.4 Procedure for deputations**

Any confidential subject matter in a deputation or if a deputation relates to an exempt item, for which the press and public are not allowed to attend, the deputation will be heard by the Cabinet or Committee in public, the ensuing debate will then be taken in confidential session, excluding the petitioners, press and public.

Cabinet or a Committee will determine whether to fully debate the deputation or refer it to a more appropriate arena for consideration and report.

# Arrangements for dealing with standards allegations under the Localism Act 2011

## 1 Context

These "Arrangements" set out how you may make a complaint that an elected or co-opted member of Elmbridge Borough Council ("the Council") or Claygate Parish Council has failed to comply with the authority's Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority's Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a member or co-opted member of either authority or of a Committee or Sub-Committee of the authority, has failed to comply with that authority's Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member against whom an allegation as been made.

## 2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the authority's website and on request from Reception at the Civic Centre.

The Code of Conduct of Claygate Parish Council is available for inspection on either authority's website and may also be viewed by arrangement with the Parish Clerk.

## 3 Making a complaint

If you wish to make a complaint, please write or email to –

The Monitoring Officer  
Elmbridge Borough Council  
Civic Centre  
High Street  
Esher  
Surrey KT10 9SD

[legalservices@elmbridge.gov.uk](mailto:legalservices@elmbridge.gov.uk)

The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the system in respect of complaints of member misconduct.



Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please say and we will not disclose your name and address to the member against whom you make the complaint without your prior consent. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

#### **4 Will your complaint be investigated?**

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

#### **5 How is the investigation conducted?**

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments that you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

**6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

**7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

7.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit and Standards Committee for information, but will take no further action.

7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

## **8 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?**

The Audit and Standards Committee has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council or to the Parish Council for information;
- 8.3 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.5 Instruct the Monitoring Officer to or recommend that the Parish Council arrange training for the member;
- 8.6 Remove or recommend to the Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
- 8.7 Withdraw or recommend to the Parish Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.8 Exclude or recommend that the Parish Council exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

## **9 What happens at the end of the hearing?**

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member and (if applicable) to the Parish Council, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

## **10 Who are the Hearings Panel?**

The Hearings Panel is a Sub-Committee of the Council's Audit and Standards Committee. The Independent Person is invited to attend all meetings of the Hearings Panel and his/her views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **11 Who is the Independent Person?**

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she –

- 11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the Council; or
- 11.2 Is, or has been within the past 5 years, a member, co-opted member or officer of Claygate Parish Council; or
- 11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means –
  - 11.3.1 Spouse or civil partner;
  - 11.3.2 Living with the other person as husband and wife or as if they were civil partners;
  - 11.3.3 Grandparent of the other person;
  - 11.3.4 A lineal descendent of a grandparent of the other person;
  - 11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
  - 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
  - 11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

## **12 Revision of these arrangements**

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **13 Appeals**

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

## **Special arrangements for Overview and Scrutiny Committees and Area Planning Sub-Committees**

### **1. Overview and Scrutiny Committees**

The Chairman of an Overview and Scrutiny Committee can invite a person / persons to address the Committee on a particular topic or item. Separate Protocols govern witnesses called to give evidence to an Overview and Scrutiny Committee, these Protocols are detailed in the Members' Handbook.

### **2. Area Planning Sub-Committees**

Objectors to planning applications currently have the right to address the appropriate Area Planning Sub-Committee which will be considering the planning application they are objecting to. To gain the right to address the Sub-Committee, the following criteria must be met:

- An objector will only be permitted to speak where ten or more written objections from separate households have been received within the consultation period or alternatively, a petition has been received and signed by a minimum of fifty signatories and their respective addresses. In both cases only respondents residing within the locality of the application site will be taken into account.
- Those wishing to exercise their right to speak will be required to give a minimum of four and a half days notice of their intention to do so.
- The applicant (or their agent) will be permitted to speak only in response to an objector and consequently, not solely promote the proposed development.
- A maximum of three minutes will be allocated to the person wishing to express an objection to a planning application and the same amount of time offered to the applicant or their agent to respond.
- Once a speaker has spoken on an application, they may not speak again on the same application at subsequent meetings of the Sub-Committee.

## **Procedure to be adopted at Licensing Sub-Committee hearings for representations against an application**

### **Licensing Hearing Principles**

The hearing will consist of a dialogue led by the Sub-Committee. Cross examination will not normally be allowed.

Applicants or representors may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

Members of the Authority may ask any question of any party or other person appearing at the hearing.

The Sub-Committee will usually notify the parties to the hearing of their determination of the application immediately after their deliberations and this determination will be confirmed in writing to all parties.

The Sub-Committee may take into account documentary or other information procured by a party in support of their application or representation, either before the hearing or, with the consent of all the other parties, at the hearing.

The Sub-Committee will disregard any evidence or discussion at the hearing which is not relevant to the application or representations or the licensing objectives.

It should be noted that the Licensing Authority has no power to award costs to any party to the hearing.

The Authority may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may –

- (a) refuse to permit that person to return or
- (b) permit him to return only on such conditions as the Authority may specify.

A Sub-Committee agenda will have been prepared for the meeting and will be made available at the meeting.

No person, apart from Members or officers of the Authority where appropriate, shall be permitted to use audio or video equipment to record any part of the hearing.

At the discretion of the Chairman, the Sub-Committee may place a time limit on all parties, provided that all parties are allowed an equal maximum period of time in which to exercise their rights to be heard.

### **Procedure to be adopted at the hearing**

1. The Chairman of the Sub-Committee will

- introduce the members of the Sub-Committee and the officers present
  - explain the purpose of the hearing
  - request those present who are involved in the hearing, as opposed to members of the public, to introduce themselves and to give the reason for their presence.
2. The Licensing Officer will then introduce the application.
  3. The applicant will then present their application. This may include any submission by the applicant regarding the terms of the application e.g. reduction of hours applied for, offers for conditions to be imposed by the Sub-Committee etc.
  4. Representors will then present the grounds for their representations and at the same time may seek clarification on any points relating to the application. Responsible Authorities will be heard before Interested Parties. Should a representor have already sought written permission to allow other persons to appear at the hearing, they may ask permission from the Sub-Committee for that person to speak as part of their submission. Where the information given by such persons, or representors, is repetitive or similar, the Sub-Committee may decide not to hear evidence from all of those persons.
  5. Where there are a number of representors they shall be encouraged to appoint one representor who will speak on behalf of them all to avoid repetition.
  6. The Sub-Committee may then seek clarification regarding the application as outlined and the representations made thereto.
  7. The applicant will then be invited to respond to the representations made including the submission of any amendments to the application that the applicant may wish to make.
  8. Sub-Committee may then seek further clarification regarding any matters raised by either the applicant or representor or persons who have spoken as part of a representor's submission.
  9. The applicant may then make a short closing address should they so wish.
  10. A representor may then make a short closing address should they wish to do so.
  11. The Sub-Committee will usually then withdraw to consider their decision and the Sub-Committee may ask the Legal Representative and the Licensing Officer to accompany them to advise on points of law or procedure whilst withdrawn but those officers will take no part in discussions regarding the determination of the application.
  12. If during its deliberations the Sub-Committee considers that it requires further information or clarification of a particular point the hearing will be reconvened to obtain that information.
  13. If the Legal Representative and the Licensing Officer are not already with the Sub-Committee when a decision has been reached the Sub-Committee will usually ask those officers to advise them, whilst withdrawn, on the wording of their decision and any conditions which the Sub-Committee have determined should be applied to the license if granted.
  14. The Sub-Committee will then notify the parties present of their decision.



# Overview and Scrutiny Protocol: Ancillary Groups

Overview and scrutiny forms a key part of the Council's decision-making processes, by providing an opportunity for non-executive Members to review policy and scrutinise decisions of the Council's Cabinet. This role also extends beyond the direct remit of the Council, to any matter that affects the area or the inhabitants of that area.

The Overview and Scrutiny Committee is a non decision-making body. It contributes to the Council's decision-making process by scrutinising the actions of those taking decisions and, as a result, making recommendations for improvement. Overview and scrutiny also has a role in raising awareness of emerging and important issues and placing influence on the Council and, where appropriate, external organisations to take action in a certain way.

In addition to consideration of issues at scheduled formal meetings, the Overview and Scrutiny Committee can establish three types of ancillary group to assist in carrying out its annual overview and scrutiny work programme. The three types of ancillary group that can be established by the Overview and Scrutiny Committee are: time-limited task and finish groups; standing panels; and working groups. These ancillary groups are accountable to the Overview and Scrutiny Committee.

This Protocol sets out a framework for the operation of overview and scrutiny ancillary groups. It supplements provisions already within the Council's Constitution.

## **Identifying a topic**

The Overview and Scrutiny Committee is responsible for setting its own work programme. This should be a Member-led process and any Member can suggest an item for inclusion on a committee meeting agenda or future work programme. The Committee is then responsible for deciding which topics/issues to scrutinise and by what method, for example, establishing one of the three types of ancillary group.

Given the wide-ranging role for overview and scrutiny, it is likely that there will be a very large number of items that the Committee could potentially consider. It is not possible for the committee to do everything and it will be necessary to be selective and prioritise. In particular, the Committee should consider any matter already under review by the Council as low priority.

A higher priority should be given to topics that:

- Contribute to achievement of the Council's corporate objectives
- Contribute to achievement of priorities of the Elmbridge Sustainable Community Strategy, Surrey Sustainable Community Strategy or Local Area Agreement
- Address an issue of concern raised by external inspectors
- Tackle areas of service under-performance
- Tackle areas of ongoing/ significant budgetary overspend or underspend
- Tackle areas of ongoing customer dissatisfaction
- Have considerable risk or financial implications for the Council
- Are likely to result in improvements for a significant proportion of the borough
- Are a key issue of local public concern
- Respond to changes in government policy and legislation
- Have potential for innovative change and where new policy can be developed and shaped prior to implementation
- Respond to a request from the Cabinet or Council.

A low priority should be given to topics that:



- Have recently been addressed elsewhere e.g. by a previous Member review, external inspection
- Policy is currently being implemented
- Have recently been considered, or are due to be considered, as part of the county-wide collaborative scrutiny arrangements

The Committee will also need to give consideration to:

- How the topic fits with the Committee's current work programme;
- Availability of resources to support delivery of the review and the need to deploy resources in the most efficient and cost-effective way. Resources include financial aspects and time of both Members and supporting officers.

Each suggested topic should be considered by the Committee and classified in one of the following categories:

- i. High priority – include within the Committee's current work programme and carry out as soon as possible
- ii. Low priority – include within the Committee's potential future work programme and review inclusion further at a later stage
- iii. Not a priority – do not include within the Committee's work programme

In deciding whether to volunteer to sit on an ancillary group, Members may want to give consideration to the commitment required in doing so, particularly in terms of time to attend meetings.

### **Excluded matters**

The right of any Member to refer 'local government matters' to the Overview and Scrutiny Committee is subject to some statutory exclusions. The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 lists the following as "excluded matters":-

- any matter relating to a planning decision
- any matter relating to a licensing decision
- any matter where an individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment
- any matter which is vexatious, discriminatory or not reasonable to be included on an agenda or discussed.

These exclusions do not, however, prevent investigation of a Council function if there is a suggestion of systemic failure. This means, for instance, separating the individual planning or licensing decision from the wider issue of performance. Whilst individual regulatory decisions are not matters for review or scrutiny, the overall discharge of the function can be.

### **Gathering the evidence**

A key principle of overview and scrutiny is that its findings and recommendations should be based on robust evidence. Evidence should be:

- Adequate – sufficient in scope, detail and quantity to justify findings and conclusions;
- Accurate – to the extent that assumptions can be based on it; and
- Appropriate – relevant to the issue under investigation, current, representative and inclusive.

This key principle should be applied to all ancillary groups.

The methodology used to gather the evidence should be proportionate to the remit of the group, and take into account the need to deploy available resources in an effective way. Ancillary groups can use any method for gathering evidence that they reasonably consider necessary, including:

- Interviewing senior officers and/ or Cabinet members

- Appointing advisors
- Requesting information, either written or verbal, from witnesses
- Going on site visits
- Reviewing secondary sources of information
- Undertaking or commissioning research
- Holding public meetings
- Requesting individual Members investigate something and report back.

Ancillary groups do not have the power to compel witnesses from outside the Council to attend a meeting.

All evidence gathered should be carefully recorded so that there is a clear audit trail as to how conclusions have been made and the justification for any recommendations.

### **Access to information and attendance at meetings**

Access to information and attendance at meetings by senior officers/Cabinet members will be in accordance with the relevant rules and procedures within the Council's Constitution.

### **External representatives**

Task and finish groups, standing panels, working groups may all seek the assistance of external representatives. External representatives may have access to information that has not yet been made public. Accordingly, all external representatives appointed to serve on any of the aforesaid groups will undertake to adhere in the course of their duties to the obligations of confidence that apply to councillors under the Member Code of Conduct.

### **Task and Finish Group Reviews**

The task and finish groups are established to perform specific issue-based/time-limited reviews.

The way in which task and finish group reviews are carried out will vary depending upon a number of factors such as the topic under consideration, scope of the review, time availability, resources allocated to carry out the work. However, a typical task and finish group review should include the following stages:

<b>Stage of Review</b>		<b>Responsibility</b>
1.	Identifying a topic for review	Overview and Scrutiny Committee
2.	Establishing the task and finish group	Overview and Scrutiny Committee
3.	Establishing the terms of reference for the review	Overview and Scrutiny Committee/task and finish Group
4.	Scoping the review	Task and finish group
5.	Gathering the evidence	Task and finish group
6.	Analysis of review findings, drawing conclusions and, where appropriate identifying recommendations for change	Task and finish group
7.	Preparing the report	Task and finish group
8.	Presenting the report	Task and finish group
9.	Evaluation of the review process	Task and finish group
10.	Implementation of recommendations	Cabinet/senior officers
11.	Monitoring review outcomes	Overview and Scrutiny Committee

## **1. Establishing the task group**

The Overview and Scrutiny Committee may establish a task and finish group to carry out a review into a specific issue. When it establishes a task and finish group, the Committee should set out the key dimensions for the review, including:

- The reasons why the task group has been set up and rationale behind the review
- Any specific aspects to be included within the terms of reference for the review
- Timescale for the task group to report back on its findings.

## **2. Membership of a task group**

At this stage, the Committee will appoint the membership of the task and finish group.

There are usually between 3 and 8 members on each task and finish group. Any non-executive Member can sit on a task and finish group with the aim that membership will be based on interest, experience and expertise of the Members concerned. Members of the task and finish group do not have to be members of the Overview and Scrutiny Committee. However, at least one member of each group should sit on the Overview and Scrutiny Committee, in order to facilitate reporting back on progress and outcomes from the review.

There is no requirement for political proportionality to apply to the task and finish group, although the Overview and Scrutiny Committee can decide to apply proportionality at the time of establishment. If political proportionality is not applied, the membership of the task and finish group should ideally include a mix of representatives from the different political groupings on the Council.

The task and finish group will appoint a chairman at its first meeting.

The relevant Cabinet portfolio holder can be invited to attend meetings, but cannot be a member of the task and finish group.

## **3. Establishing the terms of reference for the review**

If not already set by the Committee, the task and finish group will, at its first meeting, establish the terms of reference for the review. The proposed terms of reference should be submitted to the Overview and Scrutiny Committee for approval.

## **4. Scoping the review**

Scoping of the review is an essential part of the process and should be carried out thoroughly, even for relatively small-scale projects. It will ensure that all those involved with the task and finish group understand the objectives of the review, how they will be achieved and their role in the process. Documentation associated with the scoping exercise will also enable others to understand what the review is about.

Scoping the review should involve:

- Clarifying the purpose of the review, why it was commissioned and what it aims to achieve.
- Preliminary assessment of the main issues that could be addressed by the review.
- Identifying the key objectives and how success will be measured.
- Identifying the boundaries of the review – what will be included and what will be excluded.
- Identifying the information/evidence required and a methodology for gathering it.
- Allocating responsibilities to those involved in carrying out the review.
- Clarifying the timescale for the review and establishing realistic key milestones.
- Identifying the resource requirements and ensuring they are available.
- Identifying risks to the review and potential barriers to success.

The task and finish group may find it useful to prepare a project plan setting out the key planned activities and timescales for their completion. This will help to ensure that activities are carried out in a logical order and enable progress to be reviewed throughout the process to ensure that it remains on track.

At this stage of the process, the task and finish group should also agree practical issues such as the frequency of meetings and the preferred method of communication between the group.

## **5. Officer support**

Officer support will be made available to each task and finish group but, as a Member-led process, Members are responsible for taking an active role in scoping the review, gathering evidence, analysing findings, preparing the report and taking ownership of the report and recommendations. The support officer will assist the process by activities such as:

- Organising task and finish group meetings
- Giving procedural advice
- Supporting the task and finish group, and particularly the chairman, in scoping the review, establishing a project plan and ensuring the process stays on track
- Arranging any evidence-gathering sessions e.g. site visits or inviting witnesses to attend meetings
- Taking notes of discussion and recording evidence gathered
- Assimilating the evidence gathered and presenting findings in an appropriate format
- Assisting in communicating the outcomes of the review, including drafting the task and finish group's report.

## **6. Analysis of findings, drawing conclusions and, where appropriate, identifying recommendations for change**

Based on the evidence gathered, the task and finish group will analyse the findings of the review and draw conclusions about the appropriate way forward. In undertaking this analysis, the task and finish group should look at all of the relevant options and evaluate them against factors such as benefit, cost and risk.

During the evaluation stage, the task and finish group should refer back to the original scoping exercise to ensure that all the objectives for the review have been met and the conclusions address the identified issues.

Where appropriate, the task and finish group may decide to make recommendations for change. Recommendations must be based on the evidence gathered and be clearly linked to the findings of the review. They should be clear, straightforward and realistic proposals for action and where possible include an indication of who/when/how they should be implemented and how success will be measured. The report produced by the task and finish group should be short and concise with the recommendations limited to an appropriate number.

Copies of the evidence gathered will be retained as background information to the review report.

## **7. Preparing the report**

The content and format of the report will vary depending upon the nature of the topic being reviewed, but will typically include the following sections:

- Reasons for conducting the review; who the review was commissioned by and who carried out the review
- Objectives of the review and a brief recap of the main issues
- How the review was conducted and how the evidence was gathered
- Summary of the key items of evidence
- Key findings and how they relate to the review objectives
- Conclusions and recommendations
- Appendices, containing detailed background information to support the report.

The support officer will assist the task and finish group in drafting the report, but the whole group is responsible for agreeing the format and content, editing the draft report and giving final approval for the report's completion. The chairman of the task and finish group will be responsible for 'signing-off' the report and recommendations.

While the task and finish group should aim to achieve consensus on the report and recommendations, in the event of there being a minority view provision will be made for this to be expressed within any report that is issued on behalf of the task and finish group.

When the report from task and finish group is presented to the Overview and Scrutiny Committee, it is expected that members of the group will attend the meeting to answer any questions regarding the review process, findings and/or recommendations.

The Committee will report on the findings and recommendations of the task and finish group to the Cabinet and/or Council as appropriate, for approval.

## **8. Evaluation of review process**

After the report has been presented to the Overview and Scrutiny Committee the work of task and finish group is finished. There should be no further review work undertaken.

At this stage, after the review has concluded it is important to evaluate the review process to record lessons for the future. Depending upon the nature and scale of the review this evaluation process could include holding an evaluation meeting, or asking all participants to complete a feedback form about the process.

## **9. Implementation of recommendations**

Those recommendations approved by Cabinet/Council will be progressed for implementation by the appropriate organisation/individual. The relevant Cabinet portfolio holder will oversee implementation of recommendations internal to the Council.

## **10. Monitoring of outcomes**

Twelve months after presentation of the task and finish group's report, the Overview and Scrutiny Committee will receive a report updating on the progress made in implementing the recommendations. The Committee will have the opportunity to review progress and, where necessary, request the relevant senior officer and/or Cabinet member attend a meeting to discuss this. If necessary, the Committee can make recommendations to the Cabinet regarding any remedial action it feels necessary. The Committee will continue to receive annual reports monitoring the outcomes of the review until all of the recommendations have been completed or the Committee is satisfied that the recommendations are no longer required.

## **Standing Panels**

Standing panels are established to perform an on-going role, usually scrutiny related, throughout the year.

### **1. Establishing the standing panel**

The Overview and Scrutiny Committee will usually establish standing panels at the first meeting of the Municipal Year. When establishing the standing panel the Committee should:

- Set out the reasons why the standing panel has been established
- Any specific duties to be included in the terms of reference for the review
- How frequently the panel is expected to meet and at what intervals the panel will produce a report outlining its findings, and any recommendations, to the Committee

### **2. Membership of the standing panel**

At this stage, the Committee will appoint the membership of the standing panel.

The membership of the standing panel is to comprise any non-executive councillor with the aim that membership be based on interest, experience and expertise. Members of the standing panel do not have to be

members of the Overview and Scrutiny Committee. However, at least one member of the panel should sit on the Committee, in order to facilitate reporting back on progress and outcomes.

There is no requirement for political proportionality to apply to the standing panel, although the Overview and Scrutiny Committee can decide to apply proportionality at the time of establishment. If political proportionality is not applied, the membership of the standing panel should ideally include a mix of representatives from the different political groupings on the Council.

The membership of the standing panel is to be reviewed and appointed on an annual basis.

The standing panel will appoint a chairman and vice-chairman at its first meeting of the Municipal Year.

The relevant Cabinet portfolio holder can be invited to attend meetings, but cannot be a member of the standing panel.

### **3. Establishing the terms of reference for the panel**

If not already set by the Overview and Scrutiny Committee, the standing panel will draft its terms of reference. The proposed terms of reference will be submitted to the Overview and Scrutiny Committee for approval.

### **4. Reporting to the Overview and Scrutiny Committee**

At regular intervals (to be agreed by the Overview and Scrutiny Committee at the time of establishment) the standing panel will produce a report outlining its findings, and any recommendations to the Committee.

The officer supporting the panel will assist the members in drafting the report, but the whole group is responsible for agreeing the format and content, editing the draft report and giving final approval for the report's completion. The chairman of the panel will be responsible for 'signing-off' the report and recommendations.

The panel should aim to achieve consensus on the report and recommendations, however in the event of there being a minority view provision will be made for this to be expressed within any report that is issued on behalf of the panel.

When the report from the panel is presented to the Overview and Scrutiny Committee, it is expected that members of the panel will attend the meeting to answer any questions regarding the findings and/or recommendations.

The Committee will report on the findings and recommendations of the panel to the Cabinet and/or Council as appropriate.

### **5. Review of standing panel**

All standing panels in operation are to be reviewed at the start of the Municipal Year by the Overview and Scrutiny Committee. If the Committee agrees that an established standing panel should continue, it will need to review and approve the terms of reference of that panel.

### **6. Officer support**

Officer support will be made available to support the work of each standing panel but, as a Member-led process, the panel will be responsible for taking an active role. Members are responsible for ensuring the terms of reference of the panel are fulfilled and, in particular, preparing and presenting any reports and recommendations to the Overview and Scrutiny Committee as required.

## **Working Groups**

Working groups are established to act as collaborative consultative forums that provide views on matters within its remit, usually based on a specific theme.

## **1. Establishing the working group**

If the Overview and Scrutiny Committee identifies a topic requiring wider consultation, the Overview and Scrutiny Committee may decide to establish a working group. When setting up the working group, the Committee should set out the key dimensions for the review including:

- The reasons why the working group has been established
- The remit of the group and any specific aspects to be included in the terms of reference
- Timescale for reporting to the Overview and Scrutiny Committee and whether the working group is providing an on-going consultative function or providing a response to a time-limited consultation

## **2. Membership of the working group**

At this stage, the Committee will appoint the membership of the working group.

Any non-executive Member can sit on a working group with the aim that membership is based on interest, experience and expertise. Members of the working group do not have to be members of the Overview and Scrutiny Committee. However, at least one member of the working group should sit on the Committee, in order to facilitate reporting back on progress and outcomes.

The working group will have an established quorum, which will typically be one-quarter of the membership of that working group.

There is no requirement for political proportionality to apply to the working group, although the Overview and Scrutiny Committee can decide to apply proportionality at the time of establishment. If political proportionality is not applied, the membership of the working group should ideally include a mix of representatives from the different political groupings on the Council.

The membership of the working group is to be reviewed and approved on an annual basis, at the first Overview and Scrutiny Committee meeting of the Municipal Year.

The working group will appoint a chairman and vice-chairman at its first meeting of the Municipal Year.

The relevant Cabinet portfolio holder can be invited to attend meetings, but cannot be a member of the working group.

## **3. Establishing the terms of reference for the working group**

If not already set by the Overview and Scrutiny Committee, at its first meeting the working group will draft the terms of reference for the group. The proposed terms of reference should be submitted to the Overview and Scrutiny Committee for approval.

## **4. Responding to consultations**

When consulting on internal matters, officers will prepare a report or presentation to seek the views of the working group on any matter within the remit of that group. Any recommendations that result from this process will either be conveyed by officers as part of future reports or reported separately to the Overview and Scrutiny Committee. The Committee will report the recommendations of the working group to the Cabinet and/or Council as appropriate.

If the working group has been tasked to consider external consultations, prior to submission of any formal response, the group will consult the relevant individual member of Cabinet who must approve any statement issued on behalf of the Council (in accordance with Part 3 of the Council's Constitution).

When considering consultations, the working group should be mindful that any responses should be based on robust evidence.

## **5. Review of working group**

All working groups in operation are to be reviewed at the start of the Municipal Year by the Overview and Scrutiny Committee. If the Committee agrees that an established working group should continue, it will need to review and approve the terms of reference and membership of that group.

## **6. Officer support**

This is a Member-led process and the working group will be required to take an active role in the work of the group. For each working group, a lead officer will be identified according to the remit of the group and prepare the paperwork for the meeting, in consultation with the Chairman of that working group.



# LDF Approval Protocol

## The Bodies Involved in the Process

A small non-executive Members Working Group, comprising representatives from the Planning Committee and Sub Committees, has been established to oversee production of the Local Development Framework (LDF), promote cross-party support for potentially contentious issues, and report on a regular basis to the Cabinet. The Portfolio Holder for Regulatory Affairs also attends meetings of the Group. Minutes of meetings are reported to the Planning Committee, which is a key consultee in the process.

Responsibility for some Cabinet functions is exercised by Individual Cabinet Members and planning policy lies with the portfolio holder for Regulatory Affairs. The Council's Overview and Scrutiny Committee has the opportunity to call in decisions of the Cabinet and its individual Members for consideration. In order to ensure that decision making processes support the very tight programme for producing Local Development Documents (LDDs), the facility for calling special meetings of the Cabinet, Planning Committee and Local Plan Working Group (LPWG) may need to be invoked.

All Members of the Council will be notified electronically when an agenda for the LP Working Group is sent out.

## Purpose of this Protocol

To set out:

- An agreed and transparent process for approving and adopting each element of the LDF within the externally agreed timetables
- Clear understanding about which body should be approving each stage (Council, Cabinet or Individual Cabinet Member Decision Making (ICMDM))
- Clear understanding about if, when and how often the Planning Committee should be consulted at each stage, to minimize the incidence of 'call-in.'

## The Approval Process for Each Component of the Local Development Framework

### Development Plan Documents (DPDs)

Stage	Planning Member Input	Approving Body
Early community engagement, preparation of evidence base, generation of issues and options and initial draft document for formal consultation (may be more than one stage of consultation)	Main consideration by LPWG. Reports to Planning Committee and at least one consideration by Planning Committee prior to Cabinet agreeing consultation.	Cabinet
Publication of Council's preferred plan following analysis of consultation	Main consideration by LPWG. At least one consideration by Planning Committee.	Cabinet and Council (includes next stage)
Submission of preferred plan to Secretary of State after final consultation	Opportunity for any further updates after consultation to be considered by LPWG and referred to Cabinet and Council again if necessary	Cabinet and Council
Adoption of DPD following Inspector's ruling on soundness	None – the Council has to adopt in accordance with Inspector's ruling.	Cabinet and Council

### Supplementary Planning Documents (SPDs)

Stage	Planning Member Input	Approving Body
Preparation of draft document for consultation	Main consideration by LPWG. At least one consideration by Planning Committee prior to Cabinet agreeing consultation.	Cabinet
Adoption of SPD following analysis of consultation	Consideration by LPWG. At least one consideration by Planning Committee.	Cabinet and Council

### Local Development Scheme

Stage	Planning Member Input	Approving Body
Agreement of LDS for submission following scrutiny by Government Office of the South East (GOSE)	Consideration by LPWG with Planning Committee Members informed.	ICMDM

### Annual Monitoring Report

Stage	Planning Member Input	Approving Body
Agreement of Annual Monitoring Report for Publication	None – the document is factual	ICMDM

### Statement of Community Involvement

A simplified version of that set out above for DPDs.

### Proposals Map

This is automatically updated every time a DPD or SPD is prepared and adopted.

# Members' Planning Code of Good Practice

## Background

The Planning Code of Good Practice was first prepared in response to the Local Government Association's Guidance Note on the preparation of Local Codes of Good Practice on Planning Matters. . The Code has now been reviewed following the implementation of the Localism Act 2011, the new duty on local authorities to promote high standards of conduct amongst its Members and the adoption of local conduct arrangements. This Code supplements the Council's Members' Code of Conduct.

This Code is based on the model adopted by the Association of Council Secretaries and Solicitors (ACSeS) and launched on the 14th February 2003 and incorporating the Elmbridge Borough Council Protocol for the arrangement and conduct of site visits (November 1998). The drafting of the ACSeS model code was subject to consultation and comment from a number of other local authorities through the machinery of ACSeS, Standards for England (as existed at the time), the Local Government Ombudsman, Audit Commission and from firms of solicitors or counsel acting on their behalf. The Code, as revised, is considered to be consistent with the principles relating to public life set out in Section 28 Localism Act 2011.

## Introduction

**The aim of this Code of Good Practice:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

**The key purpose of Planning:** to control development in the public interest.

**Your role as a Member of the Planning Authority:** to make planning decisions openly, impartially, with sound judgment and for justifiable reasons.

**When the Code of Good Practice applies:** this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision-making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications.

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.**

### 1. Relationship to the Members' Code of Conduct

1.1 **Do** apply the rules in the Members' Code of Conduct first, which has statutory effect and sets out the conduct that is expected of Members when acting in their official capacity.

1.2 **Do** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Code of Good Practice, you may put:

- the Council at risk of proceedings on the legality or maladministration of the related decision; and

- yourself at risk of a complaint being made to the Monitoring Officer if the failure is also likely to be a breach of the Code of Conduct.

### 2. Development Proposals and Interests under the Members' Code

- 2.1 **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members.
- 2.2 **Do** always disclose your interest at the beginning of the meeting or as soon as you become aware of it and not just at the commencement of discussion on that particular matter.
- 2.3 **Do** then act accordingly. **Where your interest is pecuniary:** -
- **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
  - **Don't** try to represent ward views. Get another Ward Member to do so instead, explaining that you have such an interest. Don't seek to influence him or her.
  - **Don't** get involved in the processing of the application and don't 'promote' the application to subcommittee in your capacity as Ward Member.
  - **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a pecuniary interest in a proposal, using your position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.
  - **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a pecuniary interest to an appropriate officer, in person or in writing and in your private capacity, the Code places limitations on you in representing that proposal.

### **3. Separating Your Professional and Public Roles**

- 3.1 **Do** take care to separate your professional life from your work as a councillor and be sure to make it clear to others in which capacity you are acting.
- 3.2 **Do** register with the Monitoring Officer any employment, office, trade, profession or vocation carried on for gain.
- 3.3 **Do** notify the Development Control Manager in writing if you are, or are likely to be, an applicant for planning permission in the Council's area or have a significant association with such an application, whether as an agent or as a member of a professional team involved in the preparation or submission of the application. These applications will always be reported to the Committee/Sub-Committee for determination and will not be dealt with by officers under delegated powers.
- 3.4 **Do** disclose to a meeting at which you are present any pecuniary interest in a planning application, whether arising as above or in any other way, and then withdraw from the meeting.
- 3.5 **Don't** use your position as a councillor to lobby, promote or influence the outcome of a planning application in which you have a pecuniary interest. You should not, in these circumstances, use channels of communication or access to Members and officers that are not available to applicants and agents in the normal course. You should not indicate to others, including potential clients if you are employed as a planning agent, that you can use your position as a councillor to secure more favourable planning outcomes than might otherwise be the case.

### **4. Fettering Discretion in the Planning Process**

- 4.1 **Don't** fetter your discretion and therefore your ability to participate in planning decision-making at this Council by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an interest or lobby group), on how you will vote on any planning

matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.

**Fettering your discretion** in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

4.2 **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

4.3 **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district/borough and county councillor), provided:

- you do not have a pecuniary interest in the matter;
- you make it clear to the consultee body that:
  - your views are expressed on the limited information before you only;
  - you must reserve judgment and your independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you receive all of the relevant information; and
  - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
  - if it is an interest required to be registered under the Code, you disclose that interest at the outset when the Committee comes to consider the proposal.

4.4 **Don't** speak and vote on a proposal where you have fettered your discretion. You do not have to withdraw, but you may prefer to do so to avoid any appearance of impropriety.

4.5 **Do** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.

4.6 **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member where you have represented your views or those of local electors and fettered your discretion, but do not have a pecuniary interest. Where you do take such an opportunity to speak after fettering your discretion:

- advise the proper officer or Chairman that you wish to speak in this capacity before commencement of the item;
- consider removing yourself from the member seating area for the duration of that item; and
- ensure that your actions are recorded.

## **5. Contact with Applicants, Developers and Objectors**

5.1 **Do** refer those who approach you for planning, procedural or technical advice to officers.

5.2 **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you

should never seek to arrange that meeting yourself but should request the Development Control Manager to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

5.3 **Do** otherwise:

- follow the rules on lobbying;
- consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- report to the Development Control Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

**In addition in respect of presentations by applicants/developers:**

5.4 **Do** be aware that a presentation is a form of lobbying and you must not express any view that might suggest predetermination or state how you or other Members might vote.

5.5 **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.

5.6 **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, and this will be carried out by the appropriate Committee of the planning authority.

5.7 **Don't** participate in a planning presentation unless an officer is present and/or it has been organised by officers.

**6. Lobbying of Councillors**

6.1 **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.

6.2 **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

6.3 **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a modest level, its acceptance is declared as soon as possible and remember to notify the Monitoring Officer where its value is £25 or over.

6.4 **Do** copy or pass on any lobbying correspondence you receive to the Development Control Manager as soon as practicable.

6.5 **Do** promptly refer to the Development Control Manager any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.

6.6 **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will advise accordingly and may take appropriate action.

6.7 **Do** note that, unless you have a pecuniary interest, you will not be regarded as biased or having predetermined an outcome solely on account of:

- listening or receiving viewpoints from residents or other interested parties;
- making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

## **7. Lobbying by Councillors**

7.1 **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals without considering the risk of bias or predetermination. You are entitled to have a predisposition in favour of particular decisions but not a closed mind. Action, campaign or lobby groups are most likely to be formed specifically to promote or oppose planning proposals. Membership of an established residents association, political party or similar body that may have adopted a particular line in respect of a development proposal does not, by itself, fetter the discretion of an individual Member and all such cases should be considered on their particular facts.

7.2 **Do**, if you wish, join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society such as the Weybridge Society or Cobham Conservation and Heritage Trust, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal

7.3 **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken

7.4 **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

## **8. Site Visits**

8.1 **Do** try to attend site visits organised by the Council where possible.

8.2 **Do** comply with the Protocol for the arrangement and conduct of site visits prior to the determination of planning applications (November 1998)

8.3 **Don't** request a site visit unless you feel it is strictly necessary because:

- the impact of the proposed development is difficult to visualise from the plans and any supporting illustrative material or from plans or photographs prepared by officers;
- matters raised by the applicant and/or objectors cannot be assessed from the application or supporting material;

- specific material considerations relevant to the determination of the application cannot be expressed adequately by the officer's report; or

- the proposal is particularly contentious

- 8.4 **Do** ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information
- 8.5 **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- 8.6 **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 8.7 **Don't** hear representations from any party. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- 8.8 **Don't** express opinions or views to anyone or debate the overall merits of the particular development
- 8.9 **Don't** extend a site visit to include land or property owned by a third party, e.g. an adjoining objector, unless:
- it is not possible to appreciate the planning issues in any other way from the site itself; and
  - the applicant/agent is given the opportunity to also be present
- 8.10 **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
- you feel it is essential for you to visit the site other than through attending the official site visit,
  - you have first spoken to the Development Control Manager about your intention to do so and why (which will be recorded on the file) and
  - you can ensure you will comply with these good practice rules on site visits.

## **9. Public Speaking at Meetings**

- 9.1 **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- 9.2 **Do** ensure that you comply with the Council's procedures in respect of public speaking.

## **10. Officers**

- 10.1 **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Control Manager, which may be incorporated into any committee report).
- 10.2 **Do** recognise that officers are part of a management structure and you should only discuss the merits of a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- 10.3 **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their



professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

## **11. Decision Making**

- 11.1 **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- 11.2 **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- 11.3 **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- 11.4 **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- 11.5 **Do** ask to have recorded the reasons for Committee's decision to defer any proposal.
- 11.6 **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision.

These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

## **12. Training**

- 12.1 **Do** take advantage of all training opportunities provided by the Council in matters of conduct and propriety.
- 12.2 **Do** attend all planning and any other specialised training, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans and thus assist you in carrying out your role properly and effectively.