

Constitution of the Council

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Part 1: Summary and Explanation

The Council's Constitution

The Elmbridge Borough Council ("the Council") has agreed this constitution ("the Constitution") which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that they are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What's in the Constitution?

Article 1 sets out the fundamental provisions of the Constitution and provides a guide to the interpretation and operation of the Constitution. It also provides a set of criteria when reviewing governance arrangements. Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council (Article 5).
- Overview and Scrutiny of decisions (Article 6).
- The Cabinet (Article 7).
- Other Committees (Article 8).
- The Audit and Standards Committee (Article 9).
- Area Committees (Article 10).
- Joint arrangements (Article 11).
- Officers (Article 12).
- Decision making (Article 13).
- Finance, contracts and legal matters (Article 14).
- Review and revision of the Constitution (Article 15).
- Suspension, interpretation and publication of the Constitution (Article 16).

How the Council operates

The Council is composed of forty-eight Councillors with one-third elected three years in four. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Audit and Standards Committee trains and advises them on the Code of Conduct.

All Councillors meet together as the full Council. Meetings of the full Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The full Council

appoints the Leader, the Overview and Scrutiny Committee, the Planning and Licensing Committees and the Audit and Standards Committee.

How decisions are made

The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is appointed by the Leader and made up of the Leader and between two and nine other Councillors. When major issues are to be discussed or major decisions are to be made, these are published in the Cabinet's Forward Plan in so far as they can be anticipated. If these major issues and decisions are to be discussed with Council Officers at a meeting of the Cabinet, this will generally be open for the public to attend except where exempt or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If the Cabinet wishes to make a decision which is outside the Budget or Policy Framework, this must be referred to the full Council to decide.

Overview and Scrutiny

There is one Overview and Scrutiny Committee which supports the work of the Cabinet and the Council. This and its Task Groups allow citizens to have a greater say in Council matters by enquiring into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council on its policies, budget and service delivery. The Overview and Scrutiny Committee also monitors the decisions of the Cabinet. It can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables the Committee to consider whether the decision is appropriate. It may recommend that the Cabinet reconsider the decision. It may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

The Council's Staff

The Council has people working for it (called 'Officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. An agreed protocol governs the relationships between Officers and Councillors.

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Council's Constitution;
- attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- contribute to investigations by the Overview and Scrutiny Committee;
- find out, from the Cabinet's Forward Plan, which major issues are to be discussed or decided by the Cabinet and when;
- attend meetings of the Cabinet where Key Decisions are being discussed or decided;

- see reports and background papers, and any record of decisions made by the Council and Cabinet;
- complain to the Council;
- complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work.

For further information on your rights as a citizen, please contact the Council's Head of Legal Services, at the Council Offices, Civic Centre, High Street, Esher, Surrey KT10 9SD. Telephone number 01372 474474.