

Part 5: Rules of Procedure

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PART 5: RULES OF PROCEDURE

Council Procedure Rules Contents

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1. Annual Meeting of the Council

1.1 Timing and business

In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in March, April or May.

The Annual Meeting will:

- (i) elect a person to preside if the Mayor or Deputy Mayor are not present;
- (ii) elect the Mayor;
- (iii) elect the Deputy Mayor;
- (iv) deal with any business required by statute to be done before any other business;
- (v) deal with any business expressly required by statute to be done;
- (vi) receive any declarations of interest from Councillors;
- (vii) receive any announcements from the Mayor and/or Chief Executive;
- (viii) elect the Leader (where the term of office of the current Leader has expired);
- (ix) receive the Leader's report on any appointment of a Deputy Leader and any appointments or changes to the Cabinet;
- (x) appoint at least one Overview and Scrutiny Committee, an Audit and Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive Functions (as set out in Part 3, Table 1 of this Constitution);
- (xi) undertake appointment of the Chairmen and Vice-Chairmen of the following Committees, with the process being led by the presiding Chairman seeking nominations: Overview and Scrutiny Committee; Licensing Committee, Planning Committee and Audit and Standards Committee.
- (xii) consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on Committees and Outside Bodies

At the Annual Meeting, the Council will:

- (i) decide which committees to establish for the Municipal Year;
- (ii) decide the size of those committees; and
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules.

2. **Ordinary Meetings**

Ordinary meetings of the Council will take place in accordance with a programme decided by Council. Ordinary meetings will:

- (a) elect a person to preside if the Mayor or Deputy Mayor are not present;
- (b) deal with any business required by statute to be done before any other business;
- (c) approve the minutes of the last meeting(s);
- (d) receive any declarations of interest from Councillors;
- (e) receive any announcements from the Mayor, Leader, members of the Cabinet or the Chief Executive;
- (f) deal with any business expressly required by statute to be done;
- (g) receive answers from the Leader to questions submitted in accordance with Council Procedure Rules;
- (h) receive reports from the Cabinet and the Council's committees and receive questions and answers on any of those reports;
- (i) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (j) consider motions; and
- (k) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework and reports of the Overview and Scrutiny Committee for debate.

3. **Extraordinary Meetings**

Calling extraordinary meetings

Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:

- (a) the Council by resolution;
- (b) the Mayor;
- (c) the Monitoring Officer in the exercise of his/her statutory functions; and
- (d) any five Councillors if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

4. **Appointment of Substitute or Replacement Councillors of Committees and Sub-Committees**

This Rule shall apply only to those committees or sub-committees or other internal bodies constituted in accordance with the Local Government (Committees and Political Groups) Regulations 1990 as amended ("the Political Balance Rules").

- (a) Before a replacement substitution can take effect, a minimum of five days written notice shall be given to the Chief Executive by a Group Leader, or his/her nominated representative, of the

replacement substitution of one Councillor from his/her Group for another Councillor from his/her Group. A temporary substitution may be made without notice in advance but shall be communicated at the start of the meeting by the substitute member. Wherever possible, Members shall endeavour to give advance notice of temporary substitutions. Such advance notification of a temporary substitution shall be communicated in writing or by email to the Chief Executive by no later than 4pm on the day of the meeting.

- (b) A replacement shall continue in force until further notice.
- (c) A temporary substitute shall apply for a particular meeting/meeting only.
- (d) At the beginning of the relevant meeting the Chairman shall advise the meeting of the details of the substitution or replacement. Details of substitutions or replacements will be minuted. In the case of temporary substitutions, if the original Councillor is present at that point he/she must indicate so and will automatically resume their role of voting Councillor for that committee and thereby nullify the substitution for that meeting. Such changes will not be permitted later in the meeting. Where a temporary substitution has been communicated in advance, and reported by the Chairman at the start of the meeting, the substitution shall not be invalidated by the late arrival of the substitute at the meeting.
- (e) The appointment of a replacement or substitute Councillor under this Procedure Rule shall be deemed to be an expression of the wishes of the relevant Group under Regulation 13 of the Political Balance Rules and shall be deemed to be an appointment made by the Council.
- (f) Nothing in this Procedure Rule shall affect the right of a Group to appoint a replacement or substitute member of their group to any body which the Procedure Rule applies in place of a member of their Group who has for any reason ceased to be a Councillor before any subsequent review to determine the number of seats to which each group on the Council is entitled under Section 15 of the Local Government and Housing Act 1989 and Regulation 17 of the Political Balance Rules has taken place.
- (g) Substitutions are not acceptable on the Audit and Standards Committee, the Licensing Committees and its Sub-Committees, or the Shareholder Board.

5. Time and Place of Meetings

The time and place of meetings will be determined by the Proper Officer and notified in the summons.

6. Notice of and Summons to Meetings

The Proper Officer will give notice to the public of the time and place of any meeting of the Council in accordance with the Access to Information Procedure Rules. At least five clear days before a meeting, the Proper Officer will send a summons signed by him or her by post to every Councillor or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

Want of service of summons on any Councillor shall not affect the validity of a meeting of the Council.

7. Chairman of Meeting

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to Committee and Sub-Committee meetings, references to the Mayor also include the chairman of Committees and Sub-Committees.

8. Quorum

The quorum of a meeting will be one quarter of the Council. During any meeting if the Mayor counts the number of Councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. Questions by Councillors

9.1 On reports of the Cabinet or Committees (without notice)

A Councillor may ask the Leader or the Chairman of a Committee or Sub-Committee any question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or under consideration by the Council.

9.2 Questions on notice at a meeting of the Council

Subject to Rule 9.4, any Councillor may ask:

- (a) the Mayor;
- (b) a member of the Cabinet other than the Leader;
- (c) the Leader (subject to Rule 9.7 & 9.8);
- (d) the Chairman of any Committee or Sub-Committee

a question on any matter in relation to which the Council has powers or duties or which affects the Area.

9.3 Questions on notice at Committees and Sub-Committees

Subject to Rule 9.4, a member of a Committee or Sub-Committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affects the area and which falls within the terms of reference of that Committee or Sub-Committee.

9.4 Notice of questions

A Councillor may only ask a question under Rule 9.2 or 9.3 if either:

- (a) they have given notice in writing (committee@elmbridge.gov.uk) of the question to the Proper Officer by 9 a.m. on the Tuesday preceding the Council meeting; or
- (b) where the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is given to the Proper Officer by not later than 12 noon on the day of the meeting.

9.5 Response

Every question shall be put and answered without discussion but the person to whom the question is put may decline to answer.

An answer may take the form of:

- (a) an oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

9.6 **Supplementary question**

A Councillor asking a question under Rule 9.2 or 9.3 may ask one supplementary question without notice of the Councillor to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

9.7 **Leader's Question Time**

Questions of the Leader submitted in accordance with Rules 9.2 to 9.6 above will be dealt with at meetings of the Council in the following way:

- (i) A Leader's question time session will appear on the Council's order of business paper as a separate item;
- (ii) The Leader's question time session will last not more than forty minutes;
- (iii) Questions will be dealt with on a "first received, first answered" basis. Where it is not possible to answer all questions submitted within the forty minute period allocated, written answers will be circulated to all Councillors as soon as possible following the meeting of the Council;
- (iv) A Councillor asking a question under Rule 9.2 may ask one supplementary question at the Council meeting at which the Leader's answer is given. The supplementary question must arise directly out of the original question or the reply.
- (v) Leader's question time does not apply to Annual / Extraordinary or adjourned meetings of the Council.
- (vi) Questions shall not address or concern individual licensing or planning applications or decisions.

9.8 At the discretion of the Chairman, further questions be allowed from Members to the Leader/relevant Portfolio Holder on the same matter, with any one Member being restricted to one additional question at any one Council Meeting.

9.9 The Leader may, in addition to Leader's Question Time give a short summary statement of no longer than ten minutes duration, updating the Council on matters of interest and relevant issues which have come to the fore since the previous meeting of the Council.

10. **Motions on Notice**

10.1 **Notice**

Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by the Councillor or Councillors giving notice, must be delivered to the Proper Officer at least seven clear days before the date of the meeting. These will be entered in a book open to public inspection.

10.2 **Motion set out in agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Councillor giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

10.3 **Scope**

Motions must be about matters for which the Council has a responsibility or which affect the area.

11. Motions Without Notice

The following motions may be moved without notice:

- (a) to appoint a chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Councillor arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council Procedure Rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a Councillor named under Rule 19.3 or to exclude them from the meeting under Rule 19.4;
- (p) to give the consent of the Council where its consent is required by this Constitution; and
- (q) to authorise sealing of any document.

12. Rules of Debate

12.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

12.2 Right to require motion in writing

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to him/her before it is discussed.

12.3 Seconded's speech

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

12.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. The proposer of a motion shall be entitled to speak for up to ten minutes in both proposing the motion and concluding that particular debate. In addition, a proposer of an amendment to the motion shall be entitled to speak for up to ten minutes. The principal responder to the motion and /

or amendment e.g. the Leader of the Council / Portfolio Holder / Chairman of Committee etc., in responding to that particular debate shall be entitled to speak for up to 10 minutes. No other speech may exceed 5 minutes without the consent of the Mayor.

12.5 **When a Councillor may speak again**

A Councillor who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Councillor;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

12.6 **Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words

as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

12.7 **Alteration of motion**

- (a) A Councillor may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Councillor may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

12.8 **Withdrawal of motion**

A Councillor may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Councillor may

speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

12.9 **Right of reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote. (See Council Procedure Rule 12.4).
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his/her amendment.

12.10 **Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a Councillor named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

12.11 **Closure motions**

- (a) A Councillor who has not already spoken to the question may move, without comment, the following motions at the end of a speech of another Councillor:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

12.12 Point of order

A Councillor may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law or the notification to the meeting of a personal or prejudicial interest under the Member Code of Conduct. The Councillor must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final and shall not be open to discussion.

12.13 Personal explanation

A Councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Councillor which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final and shall not be open to discussion.

13. State of the Area Debate

13.1 Calling of debate

The Leader may call a state of the area debate annually on a date and in a form to be agreed with the Mayor, or in his/her absence, the Deputy Mayor.

13.2 Form of debate

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the state of the area debate.

13.3 Chairing of debate

The debate will be chaired by the Mayor.

13.4 Results of debate

The results of the debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (ii) considered by the Leader in proposing the Budget and Policy Framework to the Council for the coming year.

14. Previous Decisions and Motions

14.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least fifteen Councillors.

14.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least fifteen Councillors. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for a further six months.

15. Voting

15.1 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Councillors voting and present in the room at the time the question was put.

15.2 Mayor's casting vote

If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote. In the case of an equal number of votes where the Mayor declines to give a second or casting vote the motion or amendment is not carried and the Council shall proceed to the next business except that when requested to do so by any Councillor, the Mayor shall put the question a second time.

15.3 Show of hands/Electronic Voting

Unless a recorded vote is demanded under Rule 15.4, the Mayor will take the vote by show of hands or by electronic means if this is agreed by full Council, or if there is no dissent, by the affirmation of the meeting. Members will be responsible for registering their own vote and for no other.

15.4 Recorded vote

On the requisition of any Councillor present, the names for and against the motion or amendment or abstaining from voting will be taken down in writing or recorded electronically and entered into the minutes. A requisition for a recorded vote must be made before the vote is taken.

15.5 Right to require individual vote to be recorded

Where any Councillor requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

15.6 Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

15.7 Recorded Votes at Budget Meetings

A recorded vote will be required at a meeting of the Council on business to approve the Budget or set Council Tax whereby there shall be recorded in the minutes of the meeting the names of the Councillors who cast a vote for the decision or against the decision or who abstained from voting.

16. Minutes

16.1 Signing the minutes

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

16.2 No requirement to sign minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that

paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

16.3 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Chairman put them.

17. Record of Attendance

- (a) The names of Councillors present at a meeting of the Council shall be recorded.
- (b) This requirement shall apply to all Committees, Sub-Committees, Working Groups and Task Groups of the Council (including details of substitutions). This does not necessarily reflect the full range of meetings and duties undertaken by Members.
- (c) A return of the attendances of Councillors up to the latest convenient date shall be prepared by the Chief Executive and presented to the Council at the Annual Meeting.

18. Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 5 of this Constitution or Rule 20 (Disturbance by Public).

19. Councillors' Conduct

19.1 Standing to speak

When a Councillor speaks at full Council they must stand and address the meeting through the Mayor. If more than one Councillor stands, the Mayor will ask one to speak and the others must sit. Other Councillors must remain seated whilst a Councillor is speaking unless they wish to make a point of order or a point of personal explanation.

19.2 Mayor standing

When the Mayor stands during a debate, any Councillor speaking at the time must stop and sit down. The meeting must be silent.

19.3 Councillor not to be heard further

If a Councillor persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may move that the Councillor be not heard further. If seconded, the motion will be voted on without discussion.

19.4 Councillor to leave the meeting

If the Councillor continues to behave improperly after such a motion is carried, the Mayor may move that either the Councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

19.5 Adjournment of Meeting

The Mayor may at his/her discretion adjourn a meeting at any time for a period not exceeding ten minutes.

19.6 General disturbance

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.

19.7 Imputations and Offensive Expressions

No Councillor may impute improper motives or use an offensive expression to any other Councillor.

19.8 Smoking

No Councillor may smoke during a meeting of the Council.

20. Disturbance by Public

20.1 Removal of member of the public

If a member of the public interrupts proceedings the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.

20.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.

20.3 Use of Audio or Video recording equipment

Members of the public shall be permitted, subject to appropriate safeguards, to film or record the public element of proceedings of the Council or its Committees or Sub-Committees in a manner that is not disruptive of business or harmful to the dignity of the meeting. The Mayor or Chairman shall request that electronic devices or equipment are operated as unobtrusively as possible.

21. Suspension and Amendment of Council Procedure Rules

21.1 Suspension

All of these Council Rules of Procedure except Rule 15.5 and 16.2 may be suspended by motion on notice or without notice if at least one half of the Council are present. Suspension can only be for the duration of the meeting.

21.2 Amendment

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

22. Application to Committees and Sub-Committees

The following Council Rules of Procedure shall apply to meetings of Committees of the Council and their Sub-Committees:

Rules 4, 5, 6, 7, 9, 10, 11, 12 (except in those parts which relate to motions and amendments requiring a seconder, to time limit and to speaking more than once), 14, 15, 16, 17, 18, 19, 20, 23, 24, 25 and 26.

23. Quorum of Committees and Sub-Committees

Business shall not be transacted at a meeting of any Committee or Sub-Committee unless at least one quarter of the whole number of the Committee or Sub-Committee is present provided:

- (a) that in no case shall the quorum of a Committee be less than three Members;

- (b) that in no case shall the quorum of a Sub-Committee be less than two Members, except in the case of the Licensing Sub-Committee where the Quorum shall not be less than 3 Members;
- (c) that for the exercise of delegated functions, the quorum of the Planning Committee shall be nine Members.

24. Questions as to Procedure in Committees and Sub-Committees

All questions as to procedure or the propriety of any action or matter in Committee or Sub-Committee shall be determined by the Chairman whose decision shall be final.

25. Cancellation of Meetings

The Chairman of a Committee or Sub-Committee, or in his/her absence the Vice-Chairman, shall be authorised, after consultation with the Chief Executive, to cancel a meeting of a standing Committee or Sub-Committee in cases where he/she is satisfied that the amount of business to be conducted at that meeting is such that it could conveniently be left over until the next ordinary meeting of the Committee or Sub-Committee.

26. Proper Officer

For the purposes of the Council Procedure Rules the Proper Officer will be the Chief Executive or his/her nominated Officer.

Access to Information Procedure Rules

1. Scope

These rules apply to all meetings of the Council, Overview and Scrutiny Committee, [area Committees], the Audit and Standards Committee and Regulatory Committees and public meetings of the Cabinet (together called meetings).

2. Additional Rights to Information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or in law.

3. Rights to Attend Meetings

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

4. Notices of Meeting

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Civic Centre, High Street, Esher, Surrey.

5. Access to Agenda and Reports Before the Meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection from the time the item was added to the agenda.

6. Supply of Copies

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item,

to any person on payment of a charge for postage and any other costs.

7. Access to Minutes etc. After the Meeting

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. Background Papers

8.1 List of background papers

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

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

8.2 Public inspection of background papers

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

9. Summary of Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Civic Centre, High Street, Esher, Surrey.

10. Exclusion of access by the Public to Meetings

10.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998, establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.3 Meaning of Confidential Information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.4 Meaning of Exempt Information

The Council may consider information as Exempt where the best interests of the Authority are not to disclose such information to the press and public, and where one or more of the following exemption criteria apply:

Schedule 12A of the Local Government Act 1972 (as amended) provides the following descriptions of Exempt Information:

Paragraph	Description
1.	Information relating to any individual.
2.	Information which is likely to reveal the identity of an individual.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or office holders under, the Authority.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6.	Information which reveals that the Authority proposes: <ul style="list-style-type: none"> a. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or b. to make an order or direction under any enactment.
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
Part 2 qualifications	
1.	Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under: <ul style="list-style-type: none"> a. the Companies Act 1985(3); b. the Friendly Societies Act 1974(4); c. the Friendly Societies Act 1992(5); d. the Industrial and Provident Societies Acts 1965 to 1978(6); e. the Building Societies Act 1986(7); or f. the Charities Act 1993(8).
2.	Information is not exempt information if it relates to proposed development for which the Local Planning Authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992(9).
3.	Information which: <ul style="list-style-type: none"> a. falls within any of Paragraphs 1 to 7 above; and b. is not prevented from being exempt by virtue of Paragraph 8 or 9 above, is exempt information if, and so long, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. Exclusion of Access by the Public to Reports

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not to be disclosed to Press or Public" together with the category of information likely to be disclosed.

12. **Application of Access to Information Rules to the Cabinet**

Rules 13 – 24 below apply to the Cabinet and its Committees. If the Cabinet or its Committees meet to take a Key Decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply.

If the Cabinet or its Committees meet to discuss a Key Decision to be taken collectively, with an Officer other than a political assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings whose sole purpose is for Officers to brief Councillors.

13. **Procedure Before Taking Key Decisions**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a Key Decision may not be taken unless:

- (a) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least three clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. **The Forward Plan**

14.1 **Period of Forward Plan**

Forward Plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

14.2 **Contents of Forward Plan**

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet, a Committee of the Cabinet, Officers, [area Committees] or under joint arrangements in the course of the discharge of an executive function during the period covered by the Forward Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan must be published at least fourteen days before the start of the period covered. The Proper Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that Key Decisions are to be taken on behalf of the Council;
- (b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the Forward Plan will contain details of the Key Decisions to be made for the four month period following its publication;
- (d) that each Forward Plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each Forward Plan will contain a list of the documents submitted to the decision takers for consideration in relation to the Key Decisions on the Forward Plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

15. General Exception Key Decisions

If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
- (b) the Proper Officer has informed the Chairman of the Overview and Scrutiny Committee, or if there is no such person, each Member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Proper Officer has made copies of that notice available to the public at the offices of the Council and published the notice on the website; and
- (d) five clear days have elapsed following the day on which the Proper Officer made notice available.

As soon as reasonably practicable after the Proper Officer has complied with the above notice requirements, he or she must make available at the offices of the Council and publish on the website a notice setting out the reasons why normal publicity was impracticable.

16. Special Urgency

Key Decisions

If by virtue of the date by which a decision must be taken, Rule 15 (General Exception Key Decisions) cannot be followed, then the decision can only be taken if the Chairman of the body making the decision (or his/her appointed representative) obtains the agreement of the Chairman (or in his/her absence, the Vice-Chairman) of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot be reasonably deferred. If the Chairman or Vice-Chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor or in his/her absence, his/her deputy, will suffice. As soon as reasonably practicable after the Proper Officer has obtained agreement, he or she must make available at the offices of the Council and publish on the website a notice setting out the reasons why normal publicity was impracticable.

Where the need exists for an urgent Key Decision to be taken, authority be delegated to the Leader (in his/her absence, his/her appointed representative), and the relevant Portfolio Holder (in his/her absence, another Member of the Cabinet), can take the decision.

Where an urgent decision is taken in accordance with this procedure, the decision is not subject to the 'Call In' Procedure. A decision is also urgent if any delay likely to be caused by the 'call in' process would seriously prejudice the Council's or the public's interests.

The record of the decision shall state whether in the opinion of the decision maker, the decision is urgent. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reason for urgency.

Non Key Decisions

Where urgent decisions need to be taken, which are not Key Decisions, but are nevertheless executive functions (i.e. functions of the Cabinet), and which cannot wait for the next Cabinet meeting, authority is delegated to the appropriate member of the Management Board after consultation and in agreement with the Leader (or in his/her absence, his/her nominated representative) and the relevant Portfolio Holder (or in his/her absence another Member of the Cabinet) to take the action.

Where an urgent decision is taken in accordance with this procedure, the decision is not subject to the 'Call In' Procedure. A decision is also urgent if any delay likely to be caused by the 'call in' process would seriously prejudice the Council's or the public's interests.

The record of the decision shall state whether in the opinion of the decision maker, the decision is urgent. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reason for urgency.

Where urgent decisions need to be taken, which are not executive functions, the Council's Orders of Delegation which were in force on 2nd April 2003, still apply insofar they are consistent with this Constitution and authority to take action is delegated to the appropriate member of Management Board after consultation and in agreement with the relevant Committee Chairman and Vice-Chairman.

17. Report to Council

17.1 When Overview and Scrutiny Committee can require a report

If the Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Overview and Scrutiny Committee Chairman, or the Mayor/Deputy Mayor under Rule 16,

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested (by the Chairman or any five Councillors). Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

17.2 Cabinet's Report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven working days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to the Council will set out the decision and the reasons for it, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision, the reasons for that opinion.

17.3 Quarterly Reports On Special Urgency Decisions

In any event the Leader will submit quarterly reports to the Council on the Executive Decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. Record Of Decisions

After any meeting of the Cabinet or any of its Committees or of an Individual Cabinet Member, whether held in public or private, the Proper Officer or, where no Officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting. The statement shall also include a record of any conflict of interest declared by any member of the decision-making body, or Cabinet member consulted by the decision-making body, and in respect of any declared conflict of interest a note of dispensation granted by the Head of Paid Service.

19. Cabinet Meetings

All meetings of the Cabinet will be conducted in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

20. Procedures prior to Private Meetings of the Cabinet

A private meeting means a meeting, or part of a meeting, of the Cabinet during which the public are excluded on account of the likelihood of confidential or exempt information being disclosed to them. At least 28 days before a private meeting of the Cabinet, a notice of intention to hold the meeting in private must be published on the website with a statement of reasons for the meeting being held in private. At least 5 days before a private meeting, a further notice of intention to hold the meeting in private must be published on the website with details of any representations received as to the decision to hold the meeting in private and a statement in response to such representations. Where the date by which a meeting must be held makes compliance with advance notice impracticable, the meeting may only be held in private where agreement has been obtained from the Chairman of the Overview and Scrutiny Committee, or if that person is unable to act the Mayor or Deputy Mayor of the Council, that the meeting is urgent and cannot reasonably be deferred. Following such agreement a

notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred shall be published on the website.

21. Attendance at Private Meetings of the Cabinet

- (a) All members of the Cabinet will be served notice of all private meetings of Committees of the Cabinet, whether or not they members of that Committee.
- (b) All members of the Cabinet are entitled to attend a private meeting of any Committee of the Cabinet.
- (c) Notice and agenda of private meetings of the Cabinet and its Committees will be served on all members of the Overview and Scrutiny Committee and Sub-Committees, at the same time as notice is served on members of the Cabinet.
- (d) Where a matter under consideration at a private meeting of the Cabinet, or a Committee of it, is within the remit of the Overview and Scrutiny Committee/Sub-Committee, any member of that Committee/Sub-Committee may attend that private meeting with the consent of the person presiding, and speak (though not speak unless those present agree).
- (e) The Chief Executive, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its Committees. The Cabinet may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place.
- (f) A private Cabinet meeting may only take place in the presence of the Proper Officer or his/her nominee with responsibility for recording and publicising the decisions.

22. Overview and Scrutiny Committee Access to Documents

22.1 Rights to copies

Subject to Rule 22.2 below, the Overview and Scrutiny Committee (including its Sub-Committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to any business transacted at a public or private meeting of the Cabinet or its Committees.

22.2 Limit on rights

The Overview and Scrutiny Committee will not be entitled to any document that is in draft form.

23. Additional Rights of Access for Members

23.1 Material relating to previous business

All Councillors will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its Committees and contains material relating to any business previously transacted at a private meeting.

23.2 Material relating to Key Decisions

All Councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which relates to any Key Decision.

23.3 **Nature of rights**

These rights of a Councillor are additional to any other right he/she may have.

24. **Proper Officer**

For the purpose of these Procedure Rules the Proper Officer shall be the Chief Executive or his/her nominated Officer.

Budget and Policy Framework Procedure Rules

1. The framework for Cabinet decisions

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Cabinet to implement it.

2. Process for developing the framework

The process by which the Budget and Policy Framework shall be developed is:

- (a) The Cabinet will publicise by including in the Forward Plan, and by publishing at the Council's offices, and publicising by other methods e.g. on its web site and in the local press, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework, and its arrangements for consultation after publication of those initial proposals. The Chairman of the Overview and Scrutiny Committee will also be notified. The consultation period shall in each instance be not less than eight weeks.
- (b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If the Overview and Scrutiny Committee wishes to respond to the Cabinet in that consultation process then it may do so. As the Overview and Scrutiny Committee has responsibility for fixing its own work programme, it is open to the Overview and Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from the Overview and Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- (c) Once the Cabinet has approved the firm proposals, the Proper Officer will refer them at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in-principle, substitute its own proposals in their place.
- (e) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f) The decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader.
- (g) An in-principle decision will automatically become effective at least five working days from the date of the Council's decision, unless the Leader informs the Proper Officer in writing within at least five working days that he/she objects to the decision becoming effective and provides reasons why.
- (h) In that case, the Proper Officer will call a Council meeting at the earliest opportunity. The Council will be required to re-consider its decision and the Leader's written submission. The Council may:

- (i) approve the Cabinet's recommendation by a simple majority of votes cast at the meeting;
or
 - (ii) approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.
- (i) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately.
 - (j) In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the Budget which may be undertaken by the Cabinet, in accordance with paragraph 5 of these Rules (virement). Any other changes to the Budget and Policy Framework are reserved to the Council.

3. Decisions outside the Budget or Policy Framework

- (a) Subject to the provisions of paragraph 5 (virement) the Cabinet, and any Officers, [area committees] or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by Council, then that decision may only be taken by the Council, subject to paragraph 4 below.
- (b) If the Cabinet, and any Officers, [area committees] or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of either of those Officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (Urgent decisions outside the Budget or Policy Framework) shall apply.

4. Urgent decisions outside the Budget or Policy Framework

- (a) The Cabinet, a Committee of the Cabinet, or Officers, [area committees] or joint arrangements discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
 - (i) if it is not practical to convene a quorate meeting of the Council; and
 - (ii) if the Chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of Council and the Chairman of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Overview and Scrutiny Committee, the consent of the Mayor and in the absence of both, the Deputy Mayor, will be sufficient.
- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

5. **Virement**

Virement may be undertaken in accordance with Section 4 (Budgetary Control: Overspending and Virement) of the Council's Financial Procedure Rules.

6. **Call-In of decisions outside the Budget or Policy Framework**

- (a) Where the Overview and Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report shall be made to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet as soon as practicable upon request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
 - (i) endorse a decision or proposal of the Cabinet decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

Or
 - (ii) amend the Council's Financial Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

Or
 - (iii) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or Chief Finance Officer.

Cabinet Procedure Rules

1. How does the Cabinet operate?

1.1 Who may make Executive Decisions?

The arrangements for the discharge of Executive Functions are set out in Part 3 of the executive arrangements adopted by the Council.

1.2 Allocations of Cabinet Portfolios by the Leader

At any meeting of the Council, the Leader may present to the Council a written record made by him/her of appointments or changes to the Cabinet, the allocation of Portfolios and the exercise of powers by individual Cabinet Members and the grant of executive powers to officers.

1.3 Sub-delegation of Executive Functions

- (a) Where the Cabinet or a Committee of the Cabinet is responsible for an executive function, they may delegate further to [an area committee], joint arrangements or an Officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Committee of the Cabinet or to an Officer.
- (c) Unless the Leader directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an Officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 The Council's Scheme of Delegation and Executive Functions

- (a) Subject to (b) below the Council's Scheme of Delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) If the Leader is able to decide whether to delegate executive functions, he/she may amend the Scheme of Delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Proper Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole. The Proper Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its chairman.

1.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 6 of this Constitution.
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 6 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the Cabinet, or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 6 of this Constitution.

1.6 **Cabinet meetings – when and where**

The Cabinet will meet in accordance with the Council's agreed schedule of meetings. The Cabinet shall meet at the Council's main offices.

1.7 **Private meetings of the Cabinet**

Meetings, or parts of meetings, of the Cabinet may only be held in private if the requirements of Rule 20 of the Access to Information Procedure Rules are satisfied (incorporating the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. These provisions require advance notice (28 days before the meeting) of confidential or exempt business, further notice (5 days before the meeting) unless the giving of such notice is impracticable and the approval of the Chairman of the Overview and Scrutiny Committee is obtained (or, in his/her absence, the Mayor or Deputy Mayor).

1.8 **Quorum**

The quorum for a meeting of the Cabinet, or a committee of it, shall be one half of the total number of members of the Cabinet (including the Leader).

1.9 **How are decisions to be taken by the Cabinet?**

- (a) Executive Decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 5 of the Constitution and will be subject to the Protocol on Cabinet Decision-Making.
- (b) Where Executive Decisions are delegated to a committee of the Cabinet, the rules applying to Executive Decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.
- (c) The Leader or in the Leader's absence the Member chairing the meeting to have a casting or second vote in the event of an equality of votes.

2. **How are Cabinet Meetings Conducted?**

2.1 **Who presides?**

If the Leader is present he/she will preside. In his/her absence, then a person appointed to do so by those present shall preside.

2.2 **Who may attend?**

These details are set out in the Access to Information Rules in Part 5 of this Constitution.

In accordance with paragraph 1.4 of the Protocol on Cabinet Decision-Making where any Councillor has requested upon the requisite notice the opportunity to make representations to the Cabinet or a Committee of the Cabinet, that Councillor shall have the right to attend.

2.3 **What business?**

At each meeting of the Cabinet the following business will be conducted:

- (a) declarations of interest, if any;
- (b) matters referred to the Cabinet whether by the Overview and Scrutiny Committee or by the Council for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 5 of this Constitution;
- (c) consideration of recommendations from the Overview and Scrutiny Committee;

- (d) matters set out in the agenda for the meeting, and which shall indicate which are Key Decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 5 of this Constitution; and
- (e) matters set out in the agenda for the meeting and which shall indicate which are Relevant Decisions in accordance with the Protocol on Cabinet Decision-Making.

2.4 **Consultation**

All reports to the Cabinet from any member of the Cabinet or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.5 **Who can put items on the Cabinet agenda?**

The Leader may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or Officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.

Any Member of the Cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request the Proper Officer will comply.

The Proper Officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where the Overview and Scrutiny Committee or the Council have resolved that an item be considered by the Cabinet.

2.5 **Who may speak at Cabinet Meetings**

1. The Leader or any other Cabinet Member.
2. Any Member or Officer who has an item included on the Cabinet agenda in accordance with Cabinet Procedure Rule 2.5.
3. Any Member who has notified the Chief Executive of their wish to make representations about a report in accordance with paragraphs 1.4 – 1.6 of the Protocol on Cabinet Decision-Making.
4. Ward Members may speak on Cabinet agenda items relating to matters concerning their particular ward.
5. Chairmen and Vice-Chairmen of Committees or Sub-Committees may speak on matters which are within the Terms of Reference of their respective Committees or Sub-Committees, or introduce any recommendation from that Committee and update the Cabinet on the considered views of Overview and Scrutiny Members on a subject to be discussed at the Cabinet meeting.
6. Group Leaders may speak on issues related to the Council's Political Groups.

Any Councillor may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. The Councillor will be invited to attend and address the meeting, whether or not it is a public meeting.

Where speaking is permitted under this Rule, speakers shall endeavour to keep their contributions concise and without unnecessary repetition of issues considered or comments made at previous meetings of the Cabinet or Committees of the Council. Where

the Leader or Chairman considers that rights to speak are being unreasonably abused, the speaker will be curtailed.

The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

3. Proper Officer

For the purposes of these Procedure Rules the Proper Officer shall be the Chief Executive or his/her nominated Officer.

Protocol on Cabinet Decision-Making

The Cabinet or a Cabinet Committee shall not take any “relevant decision” until the following requirements have been complied with:

1.1 An Officer of the Council shall, upon being so requested by the Chief Executive or a member of the Cabinet or as appears to the Officer to be appropriate, prepare a written report setting out:

- (a) the body proposing to take the decision;
- (b) the issue to be decided;
- (c) an executive summary of the issue, where the length of the report so requires for clarity;
- (d) any restrictions upon the publication of the report or public attendance at the making of the final decision, as if the decision were a decision falling to be made by a Committee of Elmbridge Borough Council in accordance with Sections 100 and 100A to 100K of the Local Government Act 1972 or subsequent amending legislation;
- (e) the facts upon which any decision must be based;
- (f) any legislative requirements, including any Human Rights Act issues;
- (g) any Elmbridge Borough Council policy relating to the issue;
- (h) any relevant national or regional guidance;
- (i) the options available to the decision-making body;
- (j) the staffing and financial implications of the issue;
- (k) any consultations undertaken, the views of any consultees and a summary of any other representations received;
- (l) any implications for any other areas of Elmbridge Borough Council’s activities;
- (m) the Cabinet Portfolio which the issue falls within;
- (n) the Wards within the Elmbridge Borough Council area which are particularly affected by the issue under consideration;
- (o) the Officer’s recommendation in respect of the proposed decision and the reasons supporting the Officer’s recommendation;
- (p) the place, date and time at which the body proposes to make its decision;
- (q) a list of any background papers.

1.2 At least five clear working days before the proposed date and time for taking the final decision, the Officer shall send a copy of the report, or arrange for a copy of the report to be sent to:

- (a) all members of the decision-making body;
- (b) all other Councillors;
- (c) the Chief Finance Officer, the Monitoring Officer and the Chief Executive;
- (d) any other Chief Officer who is responsible for services which may be affected by the proposed decision.

- 1.3 The requirements for consultation and public participation set out above are to be regarded as a minimum, and Officers are responsible for determining when further consultation and public participation would be appropriate, and (together with the Chief Executive as appropriate) arranging such consultation and public participation.
- 1.4 Where any Councillor notifies the Chief Executive at any time at least 24 hours prior to the proposed time of decision as set out in the report that he/she wishes to make representations about a report, he/she may request one of the following:
- (a) that his/her written representations be presented to the decision-making body; or
 - (b) the opportunity to make representations to the decision-making body before it takes a decision on the matter.
- 1.5 The Chief Executive shall advise the decision-making body of any representations received in accordance with this procedure.
- 1.6 **Determination**
- (a) Where no representations have been received from a Councillor, the decision-making body may proceed to make its decision at the date, time and place set out in the report.
 - (b) Where any Councillor has requested the opportunity to make representations in accordance with 1.4 above, that Councillor shall have the right to attend at the time, date and place set for the decision-making body to make its decision and to make representations to the decision-making body for a maximum of five minutes before the decision-making body takes its decision on the matter.
- 1.7 **“Relevant Decisions”**
- A decision shall comprise a relevant decision if it is either a Key Decision or:
- (a) it is not within an approved budget;
 - (b) it is in conflict with a policy approved by the Council;
 - (c) it raises new issues of policy;
 - (d) it requires any of the following:
 - (i) **staff:**
it will give rise to the need to appoint staff, re-deploy or change the normal place of work of existing staff, materially change the terms of appointment of existing staff or result in any staff being made redundant;
 - (ii) **land:**
requires the acquisition or disposal of any land or interest in land;
 - (iii) **finance:**
requires a virement of funding in excess of the virement limits approved by the Council;
 - (e) it requires an application to be made for planning permission, listed building, ancient monument or conservation area consent;
 - (f) **statutory orders or schemes:**
if it comprises or includes the making, approval or publication of a draft or final scheme which may require, either directly or in the event of objection, the approval of a Minister of the Crown;

- (g) **initiation or adoption of legislation:**
if it requires the passage of local legislation or the adoption by Elmbridge Borough Council of national legislation;
- (h) **ex-gratia payments:**
proposes the payment of an ex-gratia payment, or payment of a sum in local settlement of a complaint, in excess of £1,000, or
- (i) **write-offs:**
proposes the writing-off of a debt to Elmbridge Borough Council of more than £1,000;
- (j) **consultation responses:**
proposes a response on behalf of Elmbridge Borough Council to a consultation by a Minister of the Crown;
- (k) **charges for Elmbridge Borough Council services:**
proposes an alteration in the standard charges which Elmbridge Borough Council makes for any of its services;
- (l) is of such significance to the locality, Elmbridge Borough Council or the services which it provides, that the Officer is of the opinion that it should be treated as a relevant decision; or
- (m) any proposal to amend any part of the Council's Constitution.

Overview and Scrutiny Procedure Rules

1. **What will be the number and arrangements for Overview and Scrutiny Committees?**

The Council will appoint at least one Overview and Scrutiny Committees as set out in Article 6. Such Committees may appoint Sub-Committees and/or Task Groups. Overview and Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

The Overview and Scrutiny Committee shall comprise the number of Members to be determined by the Council at the Annual Council Meeting. The membership shall be in accordance with the political proportionality of the Council.

The Overview and Scrutiny Committee will perform all overview and scrutiny functions on behalf of the Council and may appoint Sub-Committees and/or Task Groups as it considers appropriate to fulfil those overview and scrutiny functions.

The Overview and Scrutiny Committee shall have the Terms of Reference set out in Part 4 of this Constitution.

2. **Who may sit on Overview and Scrutiny Committees?**

All Councillors, except members of the Cabinet, may be members of an Overview and Scrutiny Committee. However, no Councillor may be involved in scrutinising a decision with which he/she has been directly involved.

3. **Co-optees**

The Overview and Scrutiny Committee or Sub-Committee shall be entitled to recommend to Council the appointment of up to five people as non-voting co-optees.

4. **Meetings of the Overview and Scrutiny Committees**

Overview and Scrutiny Committee meetings will be held in accordance with the Council's agreed schedule of meetings, which can be found on the Council's website (www.elmbridge.gov.uk). In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman of the Overview and Scrutiny Committee, by any five Councillors or by the Proper Officer if he/she considers it necessary or appropriate.

5. **Quorum**

The quorum for an Overview and Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in Part 5 of this Constitution.

6. **Who chairs Overview and Scrutiny Committee meetings?**

The Chairman and Vice-Chairman of the Overview and Scrutiny Committee/Sub-Committees will be drawn from among the Councillors sitting on the Committee/Sub-Committee, and subject to the following requirement, the Committee/Sub-Committee may appoint such a person as it considers appropriate as chairman/vice-chairman, in accordance with Council Procedure Rules.

- (a) At any one time the Chairman of the Overview and Scrutiny Committee shall be chosen from an opposition party.

7. Work Programme

The Overview and Scrutiny Committee/Sub-Committees will (in the case of Sub-Committee, subject to the parent Committee) be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.

8. Agenda items

Any Councillor shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda. That Councillor shall then be entitled to present his/her item to the Committee or Sub-Committee.

The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and (if it considers it appropriate) the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee within one month of receiving it.

9. Policy Review and Development

- (a) The role of the Overview and Scrutiny Committee in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Overview and Scrutiny Committee or Sub-Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their Terms of Reference.
- (c) The Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist it in this process. It may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform its deliberations. It may ask witnesses to attend to address it on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

10. Reports from Overview and Scrutiny Committee

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework), having regard to the Council's available resources. The report will specify if there are any recommendations being made which are at variance to professional opinion and guidance given as part of the review.

- (b) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then minority reports may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee within one council cycle of it being submitted to the Proper Officer.

11. Rights of Overview and Scrutiny Committee Members to Documents

- (a) In addition to their rights as Councillors, members of Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 5 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

12. Councillors and Officers giving account

- (a) An Overview and Scrutiny Committee or Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any (other) member of the Cabinet, the Chief Executive and/or any senior Officer to attend before it to explain in relation to matters within their remit:
 - (i) any particular decision or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and/or
 - (iii) their performance,and it is the duty of those persons to attend if so required.
- (b) Where any Councillor or Officer is required to attend an Overview and Scrutiny Committee under this provision, the Chairman of that Committee will inform the Proper Officer. The Proper Officer shall inform the Councillor or Officer in writing giving at least fifteen working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Councillor or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Councillor or Officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the Councillor or Officer arrange an alternative date for attendance within a reasonable period.

13. Call In

The Overview and Scrutiny Committee shall be entitled to consider any proposed action agreed by the Cabinet in accordance with the following 'Call In' Procedure:

- (a) the 'Call In' Procedure shall relate only to decisions made by the Cabinet under its executive powers as opposed to recommendations it makes to Council;
- (b) the decisions of the Cabinet made at a Cabinet meeting will be published within four working days of the Cabinet meeting and may be implemented after nine working days following a Cabinet meeting (i.e. implemented from the tenth working day) provided the 'Call In' Procedure has not been triggered;

- (c) the 'Call In' Procedure may be triggered within five working days from the last working day that decisions of the Cabinet are published (i.e. nine working days following the Cabinet meeting) to be referred to as the 'call in period'.

The Call In Procedure

Any five Members of the Council, excluding members of the Cabinet, shall be able to request that a Cabinet decision be 'called in' and be considered by the Overview and Scrutiny Committee.

To avoid delay in considering an item 'called in', a special meeting of the Overview and Scrutiny Committee shall be held within ten working days from the end of the 'call in' period if an ordinary meeting of that Overview and Scrutiny Committee is not scheduled in that period. In exceptional circumstances, and only in agreement with the Leader and the Chairman of the Overview and Scrutiny Committee, this timescale may be extended.

When 'calling in' a Cabinet decision for review, the five Members doing so must

- submit a 'call in' form signed and dated by each of the five Members clearly stating their reasons for requiring a review, to the Monitoring Officer who will advise the Members on whether or not the correct procedure has been followed;
- as far as possible, indicate in the 'call in' notice any further information they consider the Overview and Scrutiny Committee needs to have before it to conduct a review of the Cabinet's decision, in addition to the written report made by Officers to the Cabinet; and
- indicate whether they wish the Leader or the relevant Portfolio Holder to attend the Overview and Scrutiny Committee meeting.

Where requested in a 'call in notice', Officers will, where possible, arrange for the additional information requested to be supplied to the meeting, the Leader or his/her nominee will attend the meeting and the Officer making the report to the Cabinet or his/her nominee will attend.

When a Cabinet decision is 'called in' for review, the Chairman of the Overview and Scrutiny Committee may arrange for any additional independent information he/she considers necessary to be made available to the Committee when it meets. The Chairman may also facilitate the contribution of another Committee where it has an interest in the subject matter of the call-in (e.g. the Planning Committee in matters connected with Local Development Framework preparation).

Having reviewed the Cabinet decision, the Overview and Scrutiny Committee may either:

- request the Cabinet to reconsider the matter setting out in writing the nature of its concerns (in this connection, a representative of the Overview and Scrutiny Committee will be entitled to attend the Cabinet meeting to present their case); or
- decide that no further action be taken, in which case the decision of the Cabinet may be implemented without further consideration or delay; or
- refer the matter to full Council and recommend that Council ask the Cabinet to reconsider its decision.

A second 'call in' on any same particular matter may not be triggered.

Urgent Decisions

Where the need exists for the Cabinet to take an urgent decision, the decision be taken in consultation and agreement with the Chairman of the Overview and Scrutiny Committee thus preventing such an urgent decision from being 'called in' and facilitating immediate implementation of the decision.

The record of the decision and notice by which it is made public shall state whether, in the opinion of the decision making body, the decision is an urgent one and therefore not subject to 'call in'. That notice will bear the date on which it was published and will specify the date on which the decision will come into force and may then be implemented. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council together with the reasons for urgency.

A decision will be urgent if any delay likely to be caused by the 'call in' process would seriously prejudice the Council's or the public's interests.

A working day means Monday to Friday, between the hours of 9.00 a.m. to 5.15 p.m. not including public/bank holidays.

14. Procedure at Overview and Scrutiny Committee Meetings

- (a) The Overview and Scrutiny Committee and Sub-Committees shall consider the following business:
 - (i) minutes of the last meeting;
 - (ii) declarations of interest (including whipping declarations);
 - (iii) consideration of any matter referred to the Committee for a decision in relation to 'call in' of a decision;
 - (iv) responses of the Cabinet to reports of the Overview and Scrutiny Committee; and
 - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
 - (i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

15. Councillor Call for Action

In addition to the right to place agenda items under Rule 8, the Overview and Scrutiny Committee shall make provision for "Councillor Call for Action" pursuant to Section 21A Local Government Act 2000.

The Overview and Scrutiny Committee shall permit:-

- (a) any member of the Committee to refer to it any matter relevant to the functions of the Committee;
- (b) any member of any Sub-Committee to refer to the Sub-Committee any matter relevant to the functions of the Sub-Committee; and

(c) any member of the Council to refer to the Overview and Scrutiny Committee of which he/she is not a member any local government matter which is relevant to the functions of the Committee

In considering whether to refer a local government matter under (c) above, a member shall have regard to any advice for the time being issued by the Secretary of State.

If the Committee decides not to exercise any of its powers in relation to the matter, it shall notify the member of its decision and the reasons for it. The Committee must provide the member with a copy of any report or recommendations which it makes to the Council or to the Cabinet in relation to the matter.

“Local Government Matter”, in relation to a member, means a matter which:-

- (a) relates to the discharge of any function of the Council;
- (b) affects all or part of the electoral area for which the member is elected or any person who lives or works in that area;
- (c) is not an excluded matter.

“Excluded Matter” means any matter which is:-

- (a) a local crime and disorder matter within the meaning of Section 19 Police and Justice Act 2006;
- (b) relating to a planning decision;
- (c) relating to a licensing decision;
- (d) relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or a right of appeal conferred by or under any enactment;
- (e) vexatious, discriminatory or not reasonable to be included in the agenda or discussed at the meeting.

16. **Crime and Disorder Committee**

The Crime and Disorder Committee will:-

- (a) review and/or scrutinise decisions made or action taken in connection with the discharge by the Elmbridge Community Safety Partnership of its crime and disorder functions
- (b) make reports and/or recommendations to the Council and/or any appropriate Committee in connection with the discharge of the Elmbridge Community Safety Partnership functions, providing a copy to the responsible authorities and cooperating persons and bodies of the Partnership
- (c) consider councillor calls for action concerning local crime and disorder matters.

The Committee may in addition exercise any of the powers contained in the Crime and Disorder (Overview and Scrutiny) Regulations 2009, including requesting the attendance of officers and employees of responsible authorities or requesting information from such bodies.

Financial Procedure Rules

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Financial Procedure Rules

1. General

- 1.1 These Procedure Rules outline the system of financial administration approved by the Council to secure proper administration of the financial affairs of the Council as required by Section 151 of the Local Government Act 1972 and should be read in conjunction with the relevant Procedure Rules.
- 1.2 References made in these Procedure Rules to Directors are to members of the Management Board. References to the Cabinet shall include its Committees and/or Sub-Committees where appropriate.
- 1.3 The Cabinet shall be responsible for regulating and controlling the finances, assets and liabilities of the Council. In carrying out this responsibility, the Cabinet shall make such Financial Procedure Rules as are necessary for the supervision and control of the finances, accounts, expenditure, income and assets of the Council. These Procedure Rules shall be reviewed regularly but at least every 3 years.
- 1.4 The Chief Finance Officer shall be responsible for the proper financial administration of the Council, as required by Section 151 of the Local Government Act 1972, under the general direction of the Cabinet.
- 1.5 Financial Procedure Rules shall not override any statutory provisions that apply.
- 1.6 The Cabinet may waive compliance with any of these Procedure Rules in a particular case or in any particular class of case, provided that such waiver shall be reported to the next meeting of the Council.
- 1.7 The provisions of these Procedure Rules shall also apply to services carried out under agency arrangements for any other Authority or organisation, except where otherwise required by that Authority.
- 1.8 Consultants acting for the Council will be bound by these Procedure Rules and it will be a condition of their employment that they do so.
- 1.9 The Chief Finance Officer shall be responsible for compliance with the requirements of the current Accounts and Audit Regulations and Accounting Codes of Practice.
- 1.10 The Chief Finance Officer shall make such financial procedures associated with these Procedure Rules as he/she may consider necessary.
- 1.11 The Chief Executive and each Director shall ensure that all staff of their respective Directorates are made aware of and fully understand the requirements and implications of Financial Procedure Rules as far as they relate to their professional duties and responsibilities. The Director shall, in consultation with the Chief Finance Officer, prepare any necessary financial instructions detailing the action to be taken within the Directorate to ensure compliance with Council Procedure Rules and Financial Procedure Rules. Copies of these instructions and any future amendments to them shall be forwarded to the Chief Finance Officer and to the Head of Internal Audit.
- 1.12 Breaches of Financial Procedure Rules shall be reported to the Chief Finance Officer by the relevant Director/Chief Executive and may be treated as disciplinary offences and, where the Chief Executive considers it appropriate, reported to the Cabinet.
- 1.13 Each Director/Chief Executive shall consult the Chief Finance Officer with respect to any matter within his/her purview which is liable materially to affect the finances of the Council before any provisional or other commitment is incurred or before reporting thereon to the Cabinet or to any other Committee.

- 1.14 No report having financial implications shall be submitted to the Cabinet, any Committee or Sub-Committee without adequately timed prior consultation with the Chief Finance Officer.

2. Financial Planning

- 2.1 Annually, each service Director shall submit to the Cabinet a capital programme (including details of any ongoing revenue implications) and estimates of revenue expenditure and income. The Chief Finance Officer shall, in consultation with service Directors, prepare corporate estimates for the capital programme and estimates of revenue expenditure and income for all of the Council's services and report to the Cabinet thereon. This report shall include any observations and recommendations of the Management Board in relation to those estimates.
- 2.2 The Cabinet shall consider the aggregate effect of these programmes and estimates on the Council's financial resources and, after consultation on proposed amendments, shall submit them to the Council for approval, together with a recommendation for the Council Tax to be levied for the following year, having determined the supporting resources to be used.
- 2.3 The Chief Finance Officer shall report to the Cabinet with respect to the level of financial resources proposed to be utilised in each financial year and shall keep the Cabinet informed with respect to the Council's finances and financial performance.
- 2.4 The detailed form of capital and revenue estimates shall be determined by the Chief Finance Officer, consistent with the general directions of the Cabinet and after consultation with each Director concerned.
- 2.5 The Chief Finance Officer shall make contingency provisions with the approval of the Cabinet for whatever use as may be determined by the Cabinet.

3. Financial Commitments

- 3.1 The Chief Finance Officer shall prepare and make public a medium-term financial strategy and budget profile giving a three year forward assessment (for the next budget year and the two following years) of the revenue commitments based on present levels of service and efficiency but reflecting also decisions taken on new commitments. This plan should highlight total net expenditure (after income from fees and charges) on services and on financing costs, shown separately to make the implications explicit and in accordance with government guidelines.
- 3.2 For all proposed expenditure but excluding vired expenditure, either of a capital or revenue nature, leading to a new or increased commitment, the Director/Chief Executive concerned, in conjunction with the Chief Finance Officer, shall produce a written report to the Cabinet for approval. Such reports shall detail the revenue consequences of the decision over a three year period and the ongoing full year effect if significantly different from the third year.

4. Budgetary Control

General

- 4.1 Expenditure may be incurred within the amount approved under each head of the estimates as varied by a supplementary estimate or virement approved under these Procedure Rules subject to:
- (a) compliance with any conditions which the Cabinet shall have placed on any such item or items; and
 - (b) in respect of capital expenditure, the presentation of a detailed scheme to the Cabinet for approval.

- 4.2 Nothing in these Procedure Rules shall prevent a Director, in consultation with the Chief Finance Officer and Cabinet or nominated Member of Cabinet, from incurring expenditure which is essential to meet any immediate needs created by sudden emergency or which is referable to Section 138 of the Local Government Act 1972 (powers of principal councils with respect to emergencies or disasters), subject to their action being reported to the Cabinet at its next meeting.

Monitoring

- 4.3 Each Director/Chief Executive shall be responsible for monitoring and regulating the financial performance of the appropriate services during the currency of each estimate period and, in consultation with the Chief Finance Officer for reporting to the Cabinet on their performance. To this end the Chief Finance Officer shall provide Directors/Chief Executive with a budgetary information service, the format and timing of which shall be determined by the Chief Finance Officer in consultation with Directors/Chief Executive. It shall be the duty of the responsible Director/Chief Executive to inform the Chief Finance Officer whenever there is a likelihood that expenditure on any item/project will exceed the approved revenue or capital estimate for it, or that income will be less than the amount included in the estimates, unless a virement (transfer of estimate provision) has been approved. Additionally, where it is estimated that there will be any over expenditure or loss of income, in excess of an amount or percentage of the approved estimate set out in the appendix to these Procedure Rules (whichever is the greater), the Director/Chief Executive concerned shall report to the Cabinet with a proposal to cover the costs and to seek Cabinet approval.

Supplementary estimates shall not normally be considered unless the matter is unavoidable. Supplementary estimates should be requested in all events prior to the expenditure being incurred.

- 4.4 Increased expenditure arising within the following categories shall be deemed not to require a supplementary estimate:
- (a) Salaries, wages and pension increases arising from nationally negotiated decisions and variations in contributions under the National Insurance Superannuation Act.
 - (b) Price increases in conjunction with continuing contracts for revenue services where, in the opinion of the Chief Finance Officer, such increases are reasonable.
 - (c) Reductions in the amount of income from Government, Local or Public Authority sources.
 - (d) Interest rates or other similar financing factors.
 - (e) Payment of gratuities etc., in accordance with Council approved scales.
- 4.5 Any request for a supplementary estimate shall be submitted to the Cabinet for approval.
- 4.6 Expenditure from the Contingency Reserve or from General Reserves shall only be incurred with the approval of the Chief Finance Officer and the Cabinet.

Capital Estimates

- 4.7 The Chief Finance Officer with the relevant Director/Chief Executive shall prepare and annually review an ongoing and forward Capital Programme. This Capital Programme shall include an estimate of funds available, capital projects proposed to be funded from within these funds and all previously approved funded capital projects where expenditure has yet to be fully incurred (irrespective of the method of finance) and report thereon to the Cabinet. The detailed form of the programme shall be determined by the Chief Finance Officer, consistent with the general directions of the Cabinet.
- 4.8 Any project proposed to be included in a Capital Programme which was not contained in the preceding approved Capital Programme shall be the subject of a project appraisal report to the

Cabinet by the appropriate Director/Chief Executive, in consultation with the Chief Finance Officer. Such appraisals shall contain:

- (a) a statement of the problem and/or need to spend and recommended solution;
 - (b) a description of the project/scheme;
 - (c) the project priority;
 - (d) justification (i.e. benefits to be derived from the scheme);
 - (e) timescales and constraints thereon;
 - (f) financial cost and benefits analysed over all relevant elements;
 - (g) full revenue implications, additional manpower resources and land acquisition requirements; and
 - (h) the assessment of possible project alternatives to meet the problem/need.
- 4.9 The method of financing all capital expenditure shall be determined by the Chief Finance Officer and reported to the Cabinet.
- 4.10 The Chief Finance Officer shall have authority to approve the rephrasing of capital schemes within the approved Capital Programme between financial years (subject to the availability of resources) to make the most effective use thereof. Such variations shall be reported by the Chief Finance Officer to the Cabinet.
- 4.11 On approval by the Council of the Capital Programme the Director/Chief Executive concerned shall be authorised to take steps to enable any land required for the purposes of the Programme to be acquired.
- 4.12 The performance of all capital projects shall be monitored, in consultation with the Chief Finance Officer, by the appropriate Director/Chief Executive who shall report to the Cabinet any circumstances which may affect the scale, cost or completion of any particular scheme.
- 4.13 Capital schemes having a capital value (as set out in the appendix to these Procedure Rules) or above will be subjected to a post completion review in order to:
- (a) assess performance against the original financial and technical objectives;
 - (b) determine whether value for money has been achieved; and
 - (c) identify problem areas, good and bad management practice and ways in which control might be improved in the future.

Such reports will be prepared by the Director/Chief Executive concerned for the project, in consultation with the Chief Finance Officer.

Overspending and Virement

- 4.14 For the purposes of this section of the Procedure Rules, the following terms are defined:

Business Objectives: Major policy statements/aims for each Service.

Service: Budget heads of expenditure and income for the provision of services which combine to meet Business Objectives.

Virement: The transfer of an underspending/increase in income on one business objective/service policy to finance additional spending or reduced income on another business objective/service policy.

- 4.15 Expenditure shall not be incurred nor a reduction in income authorised unless the sum is covered by:

- an annual estimate provision; or
- virement approved in accordance with these Procedure Rules; or
- a supplementary estimate approved by the Cabinet.

4.16 Virements approved by Directors/Chief Executive shall be notified to the Chief Finance Officer within one week following approval. Requests for virements which require the approval of the Chief Finance Officer shall be submitted in writing by the Director/Chief Executive to the Chief Finance Officer.

4.17 Virements may be made within the following criteria:

1. Subject to the approval of the Director/Chief Executive responsible for the service policy:

- between service policies within the same business objective to a maximum amount of value 1 (set out in the appendix to these Procedure Rules); or
- between business plan objectives to a maximum amount of value 1 (set out in the appendix to these Procedure Rules).

2. Subject to the approval of the Chief Finance Officer:

- between service policies within the same business objective in excess of value 1 (set out in the appendix to these Procedure Rules) but not exceeding value 2 (set out in the appendix to these Procedure Rules); or
- between business plan objectives in excess of value 1 (set out in the appendix to these Procedure Rules) but not exceeding value 2 (set out in the appendix to these Procedure Rules).

All virements approved by the Chief Finance Officer under delegated powers shall be reported by the relevant Director/Chief Executive to the following meeting of the Cabinet.

3. Subject to the approval of the Cabinet:

- between service policies within the same business objective in excess of value 2 (set out in the appendix to these Procedure Rules); or
- between business objectives in excess of value 2 but not exceeding value 3 (set out in the appendix to these Procedure Rules); or
- virement between 'other services' capital schemes and between 'other services' and housing capital schemes.

Provided that:

- (a) the proposed expenditure or reduction in income does not relate to an item which has previously been considered by the Council, and has been rejected. All proposals must conform with approved Council policy;
- (b) all virements are notified to the Chief Finance Officer within one week following approval;
- (c) no net recurring increase in total expenditure will arise in any subsequent years directly from the virement unless the recurring cost is approved by the Cabinet;
- (d) the total Business Objective budget, from which the transfer will be made, is and will remain within the budgeted cash limits for that Business Objective; and
- (e) fortuitous increases in income (which have not arisen through a positive management decision) cannot be a virement source.

5. Unspent Revenue Estimates

- 5.1 Where an estimate for non-recurring expenditure is unspent at the close of a financial year the unspent balance may be used to finance the project in the next financial year, subject to the approval of the Chief Finance Officer. No other unspent balances of estimates shall be carried forward to the next financial year.

6. Accounting

General

- 6.1 The words Director/Directorate encompass the Chief Executive's Department, and any other discrete area where staff employed by the Council are involved.
- 6.2 It shall be the duty of the Chief Finance Officer to exercise supervision over all financial and accounting records and systems that employees of the Council use with a view to obtaining uniformity and co-ordination.
- 6.3 All accounting procedures and records of the Council and its Officers shall be determined by the Chief Finance Officer. Where such procedures and records are maintained in a Directorate other than that of the Chief Finance Officer he/she shall, before making any determination, consult the Director/Chief Executive concerned.
- 6.4 No changes shall be made to any accounting procedures without the prior notification to and approval of the Chief Finance Officer.
- 6.5 The Chief Finance Officer shall be responsible for the preparation and certification of all claims for grants and other financial returns required by the Government. All Directors/Chief Executive shall ensure that the Chief Finance Officer receives from their respective Directorates all information necessary for the prompt submission of such claims and returns.
- 6.6 Each Director/Chief Executive shall, in consultation with the Chief Finance Officer, prepare such financial instructions as considered necessary for the proper financial management, operation and control of the services for which they are responsible.
- 6.7 Directors/Chief Executive shall obtain the Chief Finance Officer's approval before introducing any books, forms or procedures or other records relating to cash, stores or other accounts which may affect the Council's finances.
- 6.8 Directors/Chief Executive shall submit to the Chief Finance Officer such information as the latter deems necessary for accounting and costing purposes and shall afford him/her access at all times to all accounting records and documents which may affect the Council's finances.
- 6.9 Directors/Chief Executive shall ensure that the duties of staff concerned with financial systems and transactions are, so far as is practicable, distributed with regard to the principle of internal check and control and for this purpose shall consult with the Head of Internal Audit and Chief Finance Officer. (See Financial Procedure Rule 6.10.)

Internal Check

6.10 The principles of internal check to be observed in the discharge of all accounting duties are as follows:

- (a) the provision of information regarding sums due to or from the Council, and of calculating, checking and recording these sums, shall not be undertaken by officers responsible for the collection or disbursement of such sums.
- (b) Officers charged with the duty of examining and checking accounts of cash transactions shall not be engaged in the actual processing thereof.

The responsible Director/Chief Executive shall notify the Head of Internal Audit and Chief Finance Officer whenever such principles cannot be strictly adhered to and shall regularly monitor the situation.

Security (Financial Records)

6.11 Each Director/Chief Executive shall be responsible for:

- (a) maintaining proper security and privacy of information contained in the financial records under their control (including such information kept by electronic methods); and
- (b) ensuring compliance with the Data Protection Act in respect of all relevant activity within their service and ensuring that staff are aware of their obligations under the Act.

7. Cash Imprest Accounts

7.1 The Chief Finance Officer shall provide such cash advances as he/she considers appropriate to those Officers of the Council requiring them for the purpose of reimbursing expenses. Such accounts shall be maintained on the imprest basis.

7.2 Officers holding imprest accounts shall maintain records in the form and manner prescribed by the Chief Finance Officer.

7.3 All income received on behalf of the Council must be banked or paid to the Authority as provided elsewhere in these Procedure Rules.

7.4 Payments shall be limited to minor items of expenditure:

- (a) which do not exceed the limit prescribed in the appendix to these Procedure Rules; and
- (b) for which payment is urgently required; or
- (c) for such other items as the Chief Finance Officer may approve, and which shall be supported by a receipted voucher to the extent that the Chief Finance Officer may require.

7.5 No monies may be borrowed from an imprest account at any time. Every transfer of an imprest account from one member of staff to another shall be evidenced in the records of the Department concerned by signatures of the Officers concerned.

7.6 An Officer responsible for the advance account shall, on 31 March in each year and at such times as the Chief Finance Officer and Head of Internal Audit may require, give to the Chief Finance Officer a certificate as to the state of their imprest advance.

7.7 On leaving the employment of the Council or ceasing to be entitled to hold an imprest account, an Officer shall account to the Chief Finance Officer for the amount advanced to them. Directors/Chief Executive shall notify the Chief Finance Officer as soon as they become aware of any proposed cessation of employment in this respect.

8. Internal Audit

- 8.1 The Cabinet shall be responsible for the delivery of an adequate and effective internal audit of all Council activities.
- 8.2 Internal Audit shall undertake reviews and report on all activities and operations of the Council as a service to management as directed by the Chief Executive. In order to comply with Section 151 of the Local Government Act 1972 (in accordance with which every Local Authority shall make arrangements for the proper administration of their financial affairs), reviews shall also be undertaken as directed by the Chief Finance Officer or as requested by or after consultation with other Directors. The purpose of reviews undertaken is to:
- promote economy, efficiency and effectiveness in the use of Council resources;
 - ensure that systems exist (and are adhered to) to protect the Authority against fraud and other offences;
 - ensure that records kept and information produced are reliable, necessary and appropriate;
 - appraise and report on the extent of compliance with established policies, plans and procedures;
 - produce a full statement as to the cause and effect where fraud or any improper act directly or indirectly affecting the Council's finance and/or assets is suspected; and
 - ensure that financial systems are compatible with the Council's main financial/information systems.
- 8.3 Members of the Internal Audit Division may, on production of identification:
- enter any Council premises or land;
 - have access to all records, documents and correspondence relating to any transaction of the Council, or other official/unofficial fund that any Officer holds by being an Officer of the Council;
 - require and receive such explanations as are necessary concerning any matter under examination;
 - require any employee of the Council to produce cash, stores or any other Council property (or any property that any Officer holds by nature of being an Officer of the Council) under his/her control; and
 - where a fraud, theft or major irregularity is suspected:
 - (a) remove and provide safe custody of books, records, vouchers or any other material where they may be used as evidence in an investigation; and
 - (b) after consultation with the Chief Finance Officer, to exclude staff from their normal place of work for a limited period but not exceeding 24 hours.

9. Irregularities

- 9.1 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council or any suspected irregularity in the exercise of the functions of the Authority, the Director/Chief Executive concerned shall forthwith notify the Chief Finance Officer and the Head of Internal Audit, the latter taking such steps as considered necessary by way of investigation and report to the appropriate Cabinet.

- 9.2 Where, upon investigation, the Head of Internal Audit believes that reasonable grounds exist for suspecting that a loss may have occurred as the result of misappropriation, irregular expenditure or fraud the Head of Internal Audit shall, in consultation with the Chief Finance Officer and the Chief Executive, consider whether the circumstances require further investigation by the Police.
- 9.3 Where, upon investigation, the Head of Internal Audit believes that a loss may have occurred as the result of waste, extravagance or maladministration, the Head of Internal Audit shall report the matter in the first instance to the appropriate Director.

10. Banking Arrangements and Cheques

- 10.1 All arrangements with the Council's bankers shall be made by or under arrangements approved by the Chief Finance Officer who shall be authorised to operate such banking accounts as considered necessary.
- 10.2 All cheques including bank account transfer forms shall be ordered only on the authority of the Chief Finance Officer, who shall make proper arrangements for their safe custody.
- 10.3 Cheques drawn on the Council's banking accounts shall bear the facsimile signature of the Chief Finance Officer or be signed by the Chief Finance Officer or other Officer authorised to do so. All cheques drawn in excess of the limit prescribed in the appendix to these Procedure Rules shall be countersigned by one of the Officers authorised to do so.

11. Income

- 11.1 All charges for Council services shall be reviewed at least annually by the appropriate Director. Such charges shall be submitted to Cabinet for approval, except where delegated authority shall otherwise provide. The financial implications of such reviews shall be provided for in the estimates for the forthcoming financial period.
- 11.2 The collection of all income due to the Council shall be under the direct supervision of the Chief Finance Officer or under arrangements approved by him/her.
- 11.3 Each Director/Chief Executive shall furnish the Chief Finance Officer with such particulars in connection with work done, goods supplied or services rendered and of all other amounts due as may be required to record correctly all sums due to the Council and to ensure the prompt rendering of accounts for the recovery of income due.
- 11.4 The Chief Finance Officer shall be notified promptly of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council. The Chief Finance Officer shall have the right to inspect any document or other evidence in this connection as he/she may decide.
- 11.5 All official receipt forms, books, tickets and other documents representing money or monetary value shall be ordered, controlled and issued only by the Chief Finance Officer and be in his/her custody, except where he/she may approve otherwise. A register shall be kept of all receipts and issues of such documents and each issue shall be acknowledged by the signature of the recipient.
- 11.6 Each Officer of the Council who receives money on behalf of the Council shall be accountable for that money and shall keep such records in connection therewith as are approved by the Chief Finance Officer, including an accurate chronological account of all receipts and deposits either with the Chief Finance Officer or the Council's bankers.
- 11.7 All money received by an Officer on behalf of the Council shall without delay be paid to the Chief Finance Officer or, if instructed, to the Council's banking or National Giro account. No deduction may

be made from such money save to the extent that the Chief Finance Officer may specifically authorise. Each Officer who so banks money shall enter on the paying in slip a reference to the related debt (such as the receipt number or the name of the debtor) or otherwise indicate the origin of the income; on the reverse of any cheques or other appropriate documents, the Officer shall enter the name of their Directorate/Section, office or establishment.

- 11.8 Every transfer of official money from one member of staff to another will be evidenced in the records of the Directorates/Sections concerned by the signature of the receiving Officer.
- 11.9 Personal cheques shall not be cashed out of the money held on behalf of the Council. Monies held on behalf of the Council shall be used for no other purpose than that for which they were intended.

12. Recovery of Debts

- 12.1 Debt recovery is defined as the entire process of obtaining monies due to the Council from the initial invoicing through to the recovery of debts through the Council's appointed legal representatives or through court procedures (see Orders of Delegation 3.19).
- 12.2 The Chief Finance Officer is responsible for the recovery of all debts. However, in the case of rent rebate and rent allowance overpayment, including overpayments due to fraud, the Strategic Director of Services will administer recovery in accordance with procedures approved by the Chief Finance Officer. Where appropriate, recovery will be in accordance with the policy of the Cabinet.
- 12.3 Each Director/Chief Executive and their Officers responsible for debt recovery, at whatever stage, will ensure that all reasonable effort will be made to achieve recovery of monies due. "Reasonable effort" shall be as defined in consultation with, and in accordance with any procedures and timescales approved by the Chief Finance Officer, but should include the use of pre-litigation procedures through the appointed legal representatives.
- 12.4 All Directorates involved in raising debts are responsible for maintaining clear evidence of debtor liability for all debts at the time the liability arises.
- 12.5 All Directorates involved in pursuing debts are responsible for:
 - (a) agreeing with the Chief Finance Officer a policy setting out target levels of performance for debt recovered and outstanding debt; and
 - (b) providing quarterly reports for the Chief Finance Officer setting out performance against targets and figures for outstanding debt for all categories and write-off amounts.
- 12.6 A decision to recommend the write-off of a debt shall only be made where, after all reasonable efforts have been made to secure recovery, the further pursuit of a debt would, in the judgement of the responsible Head of Service in the Directorate, in conjunction with the appointed legal representatives, prove unreasonable, uneconomic or fruitless.
- 12.7 Where write-off is recommended by Officers, it is to be authorised by:
 - (a) the Chief Finance Officer in respect of irrecoverable Council Tax or Non-Domestic Rates, or otherwise up to the amount prescribed in the appendix to these Procedure Rules or as otherwise delegated to him/her under Part 3 of the Constitution;
 - (b) the Cabinet on the recommendation of each Director/Chief Executive, in consultation with the Chief Finance Officer, over the amount prescribed in the appendix to these Procedure Rules.

13. Insurance

- 13.1 The Chief Finance Officer (Risk Manager) shall effect all insurance cover, conduct all necessary communications with the Council's insurer's and negotiate all claims, in consultation with other Officers where necessary.
- 13.2 The Council shall review its insurance arrangements not less frequently than every 5 years and its level of risk cover no less frequently than annually.
- 13.3 The Chief Finance Officer shall, at such periods as he/she may consider necessary, review all insurances in consultation with other Directors/Chief Executive as appropriate.
- 13.4 The Chief Finance Officer (Risk Manager) shall keep appropriate records containing particulars of all insurances effected by the Council and shall give other Directors all necessary information on request.
- 13.5 Each Director/Chief Executive shall keep records of all plant, vehicles, furniture and equipment under his/her control and such records shall be available for inspection by the Chief Finance Officer.
- 13.6 It shall be the responsibility of each Director/Chief Executive to give prompt notification to the Chief Finance Officer of all new risks, properties or vehicles which require to be insured, or any alterations affecting existing insurances and of any special risks with regard to contracts.
- 13.7 Directors/Chief Executive shall, within two working days, notify and provide a written report to the Chief Finance Officer in respect of any loss, liability or damage or any event likely to lead to a claim.
- 13.8 No employee shall admit liability, take any action or enter into any correspondence admitting liability on behalf of the Council.
- 13.9 All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance.
- 13.10 Directors/Chief Executive shall consult the Chief Finance Officer (Head of Legal Services) regarding the terms of any indemnity which the Council is requested to give.
- 13.11 The Chief Finance Officer (Risk Manager) shall periodically inspect insurance documents to ensure that adequate insurance cover is effected in respect of property owned or controlled by the Council, all mortgaged properties, including those where the mortgagor has exercised the option to provide such cover with a company other than the Council's own insurers.
- 13.12 The Chief Finance Officer (Risk Manager) shall periodically inspect insurance documents to ensure that adequate insurance cover is effected and maintained in respect of vehicles which are the subject of car loan agreements.
- 13.13 Each Director/Chief Executive shall consult the Chief Finance Officer (Risk Manager) in any case where, in the opinion of each Director, the nature or situation of any equipment, stores or other property for which he/she is accountable to the Council requires the provision of special security arrangements.

14. Inventories

- 14.1 Inventories shall be maintained by each Director/Chief Executive in a form agreed with the Chief Finance Officer and shall be up-to-date at all times. A current copy of each inventory shall be supplied to the Chief Finance Officer (Risk Manager).
- 14.2 The Chief Finance Officer (Head of Information Systems) shall be responsible for maintaining a central inventory of computer equipment.

- 14.3 Each Director/Chief Executive shall be responsible for maintaining an inventory of all items under their control with a replacement value in excess of that prescribed in the appendix to these Procedure Rules, but including all electrical and photographic equipment.
- 14.4 An annual check of the foregoing shall be undertaken by the Director/Chief Executive concerned and action taken in respect of any surpluses or deficiencies which shall be noted on the inventory which shall be notified to the Chief Finance Officer.
- 14.5 Each Director/Chief Executive shall be responsible for the care and custody of all equipment held within their service.
- 14.6 The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the relevant Director/Chief Executive or Head of Service.

15. Personal Computers and Printers

- 15.1 The Information Systems and Strategy Group shall prepare and review a replacement policy for personal computers and printers for approval by the Management Board.
- 15.2 The procurement, maintenance, replacement and disposal of all personal computers and printers shall be made in accordance with the approved policy.

16. Asset Registers

- 16.1 The Chief Finance Officer (Head of Asset Management and Property) shall maintain an Asset Management Plan in the form required by Government Regulations/Guidance, to include a register of all properties owned by the Council (except dwellings provided under the Housing Acts). The register is to be kept in a form to accord with recommended codes of practice. The register shall record the:
- holding service Directorate;
 - purpose for which held;
 - location;
 - extent and plan reference;
 - purchase details;
 - particulars of nature of interest;
 - rents payable;
 - rent review periods; and
 - particulars of tenancies granted.
- 16.2 The Chief Finance Officer (Head of Legal Services) shall have custody of all title deeds under secure arrangements.
- 16.3 With regard to inter account property appropriations, the responsibility for ensuring the proper appropriation of land rests with each Director/Chief Executive responsible for undertaking the relevant development. It is the responsibility of the Director/Chief Executive concerned to present reports to the Cabinet to effect such appropriation which should be initiated when the scheme and development has been approved by the Council, planning permission has been obtained and the necessary funding has been provided for within the approved Capital Programme. Each Director/Chief Executive responsible for initiating the appropriation must consult with the Chief Finance Officer before presenting a report to the Cabinet.

17. Investments, Borrowings and Trust Funds

- 17.1 In adopting the CIPFA's "Code of Practice for Treasury Management in Local Authorities":
- the Cabinet shall be responsible for the implementation and monitoring of the adopted Treasury Policy Statement;
 - all money in the hands of the Council shall be under the control of the Officer designated for the purposes of Section 151 of the Local Government Act 1972, namely the Chief Finance Officer;
 - at or before the start of each financial year the Chief Finance Officer shall report to the Cabinet on the strategy for treasury management it is proposed to adopt for the forthcoming financial year;
 - all executive decisions on borrowings and investments shall be made by the Chief Finance Officer who shall be required to act in accordance with current statutory requirements, professional guidelines (including CIPFA's "Code of Practice for Treasury Management in Local Authorities") and the Treasury Policy Statement adopted by the Council, and report thereon to the Council as required;
 - the Chief Finance Officer shall report to the Cabinet not less than twice each financial year on the activities of the treasury management operation and on the exercise of treasury management powers delegated to him/her; one such report shall comprise an annual report on treasury management for presentation by 30th September for the succeeding financial year.
- 17.2 All borrowings and investments shall be made in the name of the Council or in the name of nominees approved by the Council.
- 17.3 All negotiable instruments, financial bonds and securities held in the name of the Council or its nominees shall be held by the Chief Finance Officer under secure arrangements.
- 17.4 The Chief Finance Officer shall be the Council's registrar of stocks, bonds and mortgages.
- 17.5 All trust funds shall, wherever possible, be in the name of the Council and Officers acting as trustees shall, unless the deed provides otherwise, deposit all related securities etc. with the Chief Finance Officer for safekeeping.
- 17.6 The Chief Finance Officer shall maintain records of all borrowings and investments made by the Council.

18. Orders for Work, Goods and Services

- 18.1 Official orders shall be made out in the name of the Council, shall be in a form approved by the Chief Finance Officer and signed by the appropriate Director/Chief Executive or Officers authorised by a Director or the Chief Executive.
- 18.2 Official orders shall be issued for all work, goods or services to be supplied to the Council, except for:
- supplies of public utility services;
 - services rendered under maintenance agreements;
 - periodical payments (such as rents or rates);
 - petty cash purchases; or
 - such other exceptions as the Chief Finance Officer may approve.

- 18.3 No official order shall be issued unless the cost is covered by an approved estimate or special financial provision.
- 18.4 No official order shall be issued unless the Procedure Rules regarding the obtaining of quotations in accordance with Contract Procedure Rules 26.9-26.12 as appropriate have been followed.
- 18.5 It shall be the duty of each purchasing Officer to obtain quotations or tenders based on an estimated total order value within an appropriate period where regular orders are issued for the same/similar goods or services.
- 18.6 Where fixed prices for goods and/or services, based on an estimated total order value, are sought from suppliers it is the estimated total order value which shall determine the number of quotations etc. required by Contract Procedure Rules 26.9-26.12 as appropriate have been followed.
- 18.7 All orders shall specify the nature and quantity of the work, goods or services required and shall specify the relevant contract and agreed or estimated price excluding Value Added Tax.
- 18.8 All orders shall conform with the directions of the Council with respect to central purchasing and the standardisation of supplies and materials.
- 18.9 A copy of each order shall, if so required, be supplied to the Chief Finance Officer.
- 18.10 Each Director/Chief Executive shall control the issue of all order books and stocks of unused orders must be kept in the custody of a responsible Officer nominated by the relevant Director/Chief Executive. Official orders generated electronically shall be subject to procedures approved in advance by the Chief Finance Officer in consultation with the appropriate Director/Chief Executive.

19. Payment of Accounts

- 19.1 The Chief Finance Officer shall be responsible for making safe and efficient arrangements for all payments.
- 19.2 Apart from petty cash and other payments from advance accounts, the normal method of payment of money due from the Council shall be by cheque or other instrument drawn by the Chief Finance Officer.
- 19.3 Payments for goods or services will not normally be made in advance unless there are exceptional circumstances and the Chief Finance Officer has given his/her prior approval thereto.
- 19.4 Each Director/Chief Executive issuing an order is responsible for examining, verifying and certifying the related invoice(s) arising from sources in their Directorate. Such certification shall be in manuscript made by or on behalf of the Director/Chief Executive. The names of Officers authorised to sign such records shall be sent to the Chief Finance Officer and Head of Internal Audit by each Director/Chief Executive, together with specimen signatures, and shall be amended on the occasion of any change therein.
- 19.5 Before certifying an account, the certifying Officer shall, save to the extent that the Chief Finance Officer may otherwise determine, have satisfied himself/herself that:
 - (a) work, goods or services to which the account relates are in conformity with the order;
 - (b) work, goods or services to which the account relates have been received, carried out, examined and approved;
 - (c) prices, extensions, calculations, discounts, other allowances, credits and tax are correct;
 - (d) relevant expenditure has been properly incurred, and is within the relevant estimate provision;
 - (e) appropriate entries have been made in inventories, stores records or stock books as required;

- (f) the account has not been previously passed for payment and is a proper liability of the Council;
 - (g) the invoice contains sufficient information to explain reasonably the nature of the goods, works or service provided;
 - (h) the expenditure has been properly analysed in the appropriate coding; and
 - (i) the expenditure is, to the best of the certifying Officer's belief, legal and has been duly authorised.
- 19.6 All payments made without the support of an invoice shall be recorded on a "cheque requisition voucher" or a contracts certificate and shall be regarded as an invoice for the purposes of these Procedure Rules.
- 19.7 Statements shall not be paid. Faxed or photocopied documents shall not be passed for payment unless endorsed by the certifying Officer stating that the original is not, and is unlikely to become, available.
- 19.8 Duly certified accounts shall be passed without delay to the Chief Finance Officer who shall examine them to the extent considered necessary, for which purpose the Chief Finance Officer shall be entitled to make such enquiries and to receive such information and explanations as required. Before the certified accounts are passed to the Chief Finance Officer for payment, the Director/Chief Executive responsible shall ensure that a copy of the relevant order is endorsed to the effect that the account has been certified and passed for payment.
- 19.9 Any amendment to an account shall be made in ink and initialled by the Officer making it, stating briefly the reasons where they are not self-evident.
- 19.10 It shall be the responsibility of each Director/Chief Executive receiving goods or materials to ensure that entries are made in inventories, stores or other records where appropriate.

20. Value Added Tax (VAT)

- 20.1 Certifying Officers shall satisfy themselves that all suppliers of goods, works and services have complied with VAT legislation and have correctly completed payment documentation in accordance with instructions issued by HM Customs & Excise.
- 20.2 Officers responsible for instigating income collection for the Council shall satisfy themselves that the Council has complied with the relevant VAT legislation with regard to the supply of its services.
- 20.3 The Chief Finance Officer shall be responsible for maintaining all corporate records, accounts and claims as directed by the relevant VAT legislation.

21. Salaries and Wages

- 21.1 The payment of all salaries, wages and other emoluments to all employees of the Council shall be made by, or under arrangements approved and controlled by, the Chief Finance Officer.
- 21.2 Each Director/Chief Executive shall notify the Chief Executive (Head of Personnel) as soon as possible and in the prescribed form, of all matters affecting the payment of such emoluments, and in particular:
- (a) appointments, resignations, dismissals, suspensions, secondments and transfers;
 - (b) absences from duty for sickness or other reason, apart from approved leave;
 - (c) changes in remuneration, other than normal increments and pay awards and agreements of general application; and

- (d) information necessary to maintain records of service for superannuation, income tax, national insurance and the like.
- 21.3 The Head of Personnel shall inform the Chief Finance Officer of notifications received concerning the matters listed above and any other matters which may affect the payroll function provided by the Chief Finance Officer.
- 21.4 Appointments of all employees shall be made in accordance with the Procedure Rules of the Council.
- 21.5 All time records or other pay documents shall be in a form prescribed or approved by the Chief Finance Officer and shall be certified in manuscript by or on behalf of Directors/Chief Executive. The names of Officers authorised to sign such records shall be sent to the Chief Finance Officer by each Director/Chief Executive together with specimen signatures, and shall be amended on the occasion of any change.
- 21.6 Each Director/Chief Executive shall be responsible for the observance in their Directorate of the terms and conditions attaching to scales of pay.

22. Security

- 22.1 Directors/Chief Executive shall be responsible for maintaining proper security at all times for all buildings, stocks, stores, equipment, cash, documents and other assets under their control. They shall consult the Head of Internal Audit and Chief Finance Officer in any case where security is thought to be inadequate or where they consider that special security arrangements may be needed.
- 22.2 Maximum limits for cash holdings shall be agreed with the Head of Internal Audit and Chief Finance Officer, and shall not be exceeded without his or her express permission.
- 22.3 Keys, swipe cards and similar security related instruments to safes and similar receptacles shall be in the safekeeping of those responsible at all times. The loss of any such instruments shall be reported to the Head of Internal Audit and Chief Finance Officer immediately.
- 22.4 Each Director/Chief Executive shall be responsible for maintaining proper security and privacy of information contained in the financial records under their control, including such information kept by electronic methods.
- 22.5 Directors/Chief Executive shall be responsible for ensuring that the staff within their Directorate comply with the Data Protection legislation and that their staff are aware of their obligations under the Act.

23. Stocks and Stores

- 23.1 Each Director/Chief Executive shall be responsible for the care and custody of the stocks and stores in their Directorate.
- 23.2 Stocks and stores records and accounts shall be kept by each Director/Chief Executive in a form approved by the Head of Internal Audit and Chief Finance Officer.
- 23.3 The Chief Finance Officer in conjunction with the Director/Chief Executive concerned shall determine the method to be employed in the valuation of stores.
- 23.4 Stocks shall not be in excess of normal requirements; 'normal' relates to current or planned usage and reordering time.
- 23.5 Each Director/Chief Executive shall arrange for periodic test examinations of stocks by persons other than storekeepers and shall ensure that all stocks are checked at least once in every year.

Directors/Chief Executive shall provide certificates to confirm the value of stock in hand at 31st March in each year.

- 23.6 Each Director/Chief Executive shall periodically review levels of stock which are under their control.
- 23.7 Each Director/Chief Executive shall make such arrangements as the Head of Internal Audit and Chief Finance Officer shall determine to adjust stores balances in respect of surpluses/deficits found on stocktaking.
- 23.8 The Chief Finance Officer shall be entitled to receive from each Director/Chief Executive such information as he or she requires in relation to stores for the accounting, costing and financial records.
- 23.9 Surplus materials, stores or equipment shall be disposed of by competitive tender or public auction where the estimated attainable value is more than value 1 set out in the Appendix to these Procedure Rules for an individual item or more than value 2 set out in the Appendix to these Procedure Rules for a group of similar items.

24. Travelling, Subsistence and Financial Loss and Attendance Allowances

Officers' Expenses

- 24.1 All claims for the payment of Officers' car allowances, subsistence allowances, travelling and incidental expenses in relation to the performance of official duties shall be certified by the Director/Chief Executive or Officer authorised by him/her and then submitted to the Chief Finance Officer. All claims shall be in the form approved by the Chief Finance Officer and submitted in accordance with such timescales as he or she may determine.
- 24.2 The certification by or on behalf of the Director/Chief Executive shall be taken to mean that the certifying Officer is satisfied that journeys were authorised, the expenditure properly and necessarily incurred and that the allowances are properly payable by the Council. The names of Officers authorised to sign such records shall be sent to the Chief Finance Officer by Directors together with specimen signatures and shall be amended on the occasion of any change.

Members' Allowances

- 24.3 The Chief Finance Officer shall maintain the statutory records required in respect of Members' allowances and make such records available for inspection and provide such information about them as may be required by law.
- 24.4 Payments to Members will be made in accordance with the approved "Elmbridge Borough Council Members' Allowances Scheme". Members of the Council, including co-opted members of the Council or its Committees who are entitled to claim travelling or subsistence will receive payment from the Chief Finance Officer upon receipt of the prescribed form duly completed. Claims for travel and subsistence should be made within two months of the date of the duty performed.

Appendix to Financial Procedure Rules

Financial Procedure Rules	Value No.	Proposed Value £
4.3		250 or 5% of estimate
4.13		75,000
4.17	1	15,000
4.17	2	30,000
4.17	3	50,000
7.4		25
10.3		15,000
12.7(a)		2,000
12.7(b)		over 2,000
14.3		100
23.9	1	250
23.9	2	500

Contract Procedure Rules

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Paragraph numbers follow on consecutively from the Financial Procedure Rules for ease of cross reference.

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Contract Procedure Rules

25. Contract Procedure Rules

- 25.1 No expenditure shall be incurred on any goods, works or services unless included in the Council's approved budget and policy framework, capital programme or revenue budget.
- 25.2 Reference is made to Financial Procedure Rules 4.3 –
- It shall be the duty of the responsible Director/Chief Executive to inform the Head of Finance whenever there is a likelihood that expenditure on any goods, works or services will exceed the approved revenue or capital estimate for it, or that income will be less than the amount included in the estimates, unless a virement (transfer of an estimate provision) has been approved. Additionally, where it is estimated that there will be any over expenditure or loss of income, in excess of a sum or percentage set out in the appendix to these Procedure Rules of the approved estimate (whichever the greater) and cannot be covered by virement, the Director concerned/Chief Executive shall report to the Cabinet with a view to seeking authority for a supplementary estimate.
- 25.3 No contract with an estimated value of £75,000 or more for the provision of goods, works or services shall be entered into unless and until the necessary financial and technical references have been taken up and found to be satisfactory by the officers concerned.
- 25.4 These contract procedure rules set the framework that regulates how our Procurement should be undertaken at a broad level. More detailed advice on achieving best practice in procurement is contained within the Procurement Toolkit. This document covers the overall Procurement Process and supports these procedure rules with more practical guidance notes.

Compliance with Contract Procedure Rules

26. Financial Values within Contract Procedure Rules

- 26.1 Financial values quoted within these rules refer to values which are subject to amendment from time to time.
- All references to a contract value means the overall contract sum payable over the life of a contract. For example a 3 year contract with an annual value of £10,000 will have a contract value of £30,000 for the purpose of these rules.
- 26.2 **Compliance with legislation and European Union (EU) Directives**
- Every contract made by the Council, Cabinet or by a Committee, Sub-Committee, or officer acting on their behalf shall comply with
- the EU treaty and any relevant Directives of the EU;
 - UK legislation; and
 - these Contract Procedure Rules, unless otherwise excepted in accordance with the Rules below.
- 26.3 It shall be a condition of the employment by the Council of any person (not being an officer of the Council) to supervise a contract that in relation to such contract he/she shall comply with the requirements of these Contract Procedure Rules as if he/she were a Director/Chief Executive of the Council.

- 26.4 No exception from any of the following provisions of the Procedure Rules shall be made otherwise than by direction of the Council or Cabinet in the circumstances set out below.
- 26.5 In the case of contracts for works, goods or services the Cabinet may, if satisfied that to do so would be in the interests of the Council, waive compliance with such of the Contract Procedure Rules as they may specify.
- 26.6 Every waiver made by the Cabinet must be reported to the Council and the report must specify the reason by which each and every exception is justified.
- 26.7 Express note of any waiver of the Contract Procedure Rules and the reason for the waiver must, unless recorded in a report of the Cabinet which is laid before the Council, be made in the minutes of the Council.
- 26.8 The following circumstances represent the permitted exceptions from all or part of Contract Standing orders for which a waiver may need to be applied for:
- (a) The goods, works or services are being purchased under a public sector framework agreement that has already been tendered.
 - (b) Goods or materials are proprietary articles or are sold only at a fixed price and no satisfactory alternative is available.
 - (c) The price of the goods or materials is wholly controlled by trade organisations, government order or statutory undertakers where they have monopoly status and no satisfactory alternative is available.
 - (d) The execution of works or supply of services of a specialised nature that in the opinion of the appropriate Director are obtainable from fewer prospective contractors than required by these rules. In this case, tenders or quotations shall be obtained from the sole or all available suppliers/persons who possess sufficient expertise or suitability.
 - (e) The work to be executed or the goods or materials to be supplied consist of repairs to or the supply of parts for existing proprietary machinery or plant.
 - (f) Where the Council is acting solely as an agent of another body in compliance with the contract standing orders of that other body OR where the Council participates in a joint procurement lead by another body in compliance with the contract procedure rules of that body.
 - (g) Where the contract is one of employment.
 - (h) Where the contract relates to a financial transaction.
 - (i) Other reasons where there is no genuine competition.
 - (j) The work to be executed or goods or materials to be supplied constitute an extension of an existing contract.
 - (k) Where the contract is for the execution of work or the supply of goods or materials certified by the appropriate Director as being required so urgently as not to permit the invitation to tenders.

Exceptions (a) to (h) inclusive may be invoked with approval by Chief Executive or appropriate Director without further report or authorisation. Exceptions (i) to (k) inclusive may be invoked only after EITHER a report has been made to either the Council or Cabinet.

Quotations

26.9 No contract shall be made for goods, works or services, the estimated cost of which does not exceed £75,000, unless the following numbers of quotations have been sought by the appropriate Director /Officer where the estimated cost:

- does not exceed £5000– at least one quotation in writing;
- is more than £5000 but does not exceed £75,000 – at least three quotations in writing;
- as long as the appropriate number of quotations are sought the final number received is immaterial. However, the appropriate Director/Officer must ensure value for money

Quotations Under £5000

26.10 When obtaining quotations for the supply of goods or materials or the execution of work, the estimated cost of which does not exceed £5000:

- (a) quotations shall be sent direct to the Director/Chief Executive concerned or an appointed representative who shall record and maintain full details of quotations received;
- (b) the Director/Chief Executive or an appointed representative shall accept the quotation which in their opinion in the best interests of the Council, with a record kept of the reason(s) for the acceptance.

Quotations Over £5000

26.11 When obtaining quotations for the goods, works or services, the estimated cost of which exceeds £5000 but does not exceed £75,000:

- (a) quotations shall be obtained using approved templates and shall be returned to the Director/Chief Executive or an appointed representative and shall be submitted in a plain sealed envelope which will bear the work "quotation" followed by the subject to which it relates but shall not bear any name or make indicating the sender and such envelopes shall remain in the custody of the Director/Chief Executive or other designated officer until the time appointed for their opening;
- (b) quotations must be opened at one time by the Director/Chief Executive concerned or an appointed representative in the presence of another officer designated by the Director/Chief Executive, and a record kept of the persons present at the opening and
- (c) the Director/Chief Executive concerned or an appointed representative shall record and maintain full details of all quotations received.
- (d) Under the Local Government Transparency Code 2014, all awards exceeding £5000 must be published on the Council's Website as part of a Quarterly Report.

26.12 The procedure set out in paragraph 26.11 above shall also apply when the Director/Chief Executive is seeking tenders for of goods, works or services which allows for a tenderer to insert an overall percentage adjustment in the Form of Tender only, to the rates contained in the schedule.

26.12A The paper processes and requirements relating to invitation, submission and opening of quotations as above under 26.11(a),(b) and (c) shall not apply to operation of electronic processes, provided these processes are undertaken within a system whose use has been authorised by the Chief Financial Officer and which includes secure email and document management environment to nationally approved standards and is in compliance with recognised protocols.

Contracts Over £75,000

26.13 Contracts over £75,000 shall be referred to the Head of Legal Services for advice on tendering procedures, framework agreements and EU Regulations.

Invitation to Tender

- 26.13 (a) Where the estimated value or amount of a proposed contract exceeds £75,000 and in any other case where the Council determines, tenders shall be invited in accordance with paragraphs 26.14 to 26.18. For the purpose of this Procedure Rule, "contract" shall include contracts for goods, works or services or the disposal of any assets.
- (b) The Director/Chief Executive concerned or an appointed representative shall accept the quotation or tender that is evaluated as the most economically advantageous to the Council in accordance with the documented evaluation criteria.
- (c) Invitation to Tender templates must be used for all invitations.
- (d) Under the Local Government Transparency Code 2014, all request for Tenders must be published on the Council's Website as part of a Quarterly Report.

26.14 Open Procedure

This procedure shall apply where the Council, Committee or authorised officer has decided that tenders for a contract are to be by open competition.

The tender shall be advertised on appropriate websites such as Contracts Finder or and/or equivalent including EU-approved portals and/or Construction Line. The advertisement should specify a time limit (minimum 14 days) within which interested parties must express their interest in tendering. After the expiry of this period, invitations to tender should be sent to **all** the interested parties, specifying a period of not less than three weeks for the return of tenders. Where the procurement falls under EU/UK Regulations the required advertising and tendering periods in the EU/UK Regulations must be observed.

26.15 Restricted Procedure

Owing to the statutory prohibition on Pre-Qualification Questionnaires being used for contracts below the EU threshold, this process is only for use where estimated contract values would exceed that threshold.

This procedure shall otherwise apply where the Council or a committee or an authorised officer have decided to pre-select those contractors that are interested in bidding.

The procedure is exactly the same as the Open Procedure detailed above except the advertisement should state that a restricted tendering procedure will be used.

The advertisement should either specify the information to be provided by interested parties for the short-listing process or request them to apply for a pre-qualification questionnaire. Bidders should be given a minimum of 14 days to supply this information. Invitations to tender should be sent to no less than five tenderers selected by means of pre-determined, selection criteria (or all of them where less than five entrants meet the criteria). The invitation to tender should specify a period of not less than three weeks for the return of tenders.

Where the procurement falls under EU Regulations the required advertising and tendering periods must be observed.

26.17 **Negotiated Procedure**

This tendering procedure may be used for contracts with estimated values of £75,000 or more if it is considered that this option will achieve the best contract value.

The procedure is essentially the same as the Restricted Procedure detailed above but allows for Post Tender Negotiations to take place.

The advert must clearly state that the Negotiated Procedure is being used and that the Council reserves the right to enter into Post Tender Negotiations.

All post tender negotiations must be conducted in a manner which allows all bidders the opportunity to negotiate and which maintains the highest standards of integrity.

All post tender negotiations must be approved by the Head of Legal Services and relevant Director and be conducted by a Senior Officer.

26.18 The Negotiated Procedure should only be used in the following circumstances;

- either the Open or Restricted procedures has been used and resulted in unacceptable or irregular tenders or no tenders; or
- where the nature of the works, services or supplies being procured is such that a precise specification cannot be drawn up; or
- the procurement includes a design element.

Other procedures under EU/UK Procurement Regulations not specified here maybe used but must be approved and authorised by the Head of Legal Services.

Submission of Tenders

26.19 Where in pursuance of these Procedure Rules an invitation to tender is made, every invitation shall state that no tender will be received unless it is enclosed in a plain sealed envelope which shall bear the word "Tender" – followed by the subject to which it relates but not other name or mark indicating the sender. Tenderers are required to submit two identical copies of the tenders and all supporting documentation.

26.20 All tenders shall be kept in the custody of the Head of Asset Management and Property Services who shall be notified of the persons to whom tenders have been sent and the last date and time for receipt of those tenders. All tenders should be held by the Head of Asset Management and Property Services until the agreed date and time specified for their opening. In the case of contracts to be let by the Head of Asset Management and Property Services tenders shall be addressed to and held by the Head of Internal Audit prior to opening, and the Head of Asset Management and Property Services shall otherwise comply with these procedure rules as the initiator of the letting of a proposed contract.

26.21 The Head of Asset Management and Property Services shall be notified of the titles and description of the contract, the names of all contractors invited, and the closing date and time for receipt of tenders. No tender shall be considered valid unless it is received before the date and time specified for its return.

26.22 All tender envelopes received shall be date-stamped immediately on receipt with the date and time of receipt by the Head of Asset Management and Property Services or an officer designated by the Head of Asset Management and Property Services.

- 26.23 The Head of Asset Management and Property Services shall maintain a tender register in which the date and time of receipt of all tenders shall be recorded by an officer of that same Division. The Head of Asset Management and Property Services shall identify and record separately all tenders received late or opened in error.
- 26.24 The Head of Asset Management and Property Services shall ensure that all tenders are kept in a locked, fireproof cabinet until required for opening.
- 26.24A The paper processes and requirements relating to invitation and submission of tenders as above under 26.19, 26.20, 26.21, 26.22, 26.23 and 26.24 shall not apply to operation of electronic processes, provided these processes are undertaken within a system whose use has been authorised by the Chief Financial Officer and which includes secure email and document management environment to nationally approved standards and is in compliance with recognised protocols.

Opening of Tenders

- 26.25 Tenders received under Procedure Rules 26.14 to 26.18 shall be opened as soon as is reasonably practical after the closing date at the Civic Offices at one time and only in the presence of:
- (a) a Member of the Cabinet; and
 - (b) either the Chief Executive/Chief Finance Officer or an officer of the Council designated by the Chief Executive/Chief Finance Officer; and
 - (c) the Chief Executive/Director concerned or an officer of the Council designated by the Chief Executive/Director concerned.
- 26.26 The Head of Asset Management and Property Services shall maintain a tender register in which shall be recorded all details of the contract notified as per paragraphs 26.21 to 26.23 above, together with the amounts of each tender recorded in the register against the name of the contractor. A record of tenders not received shall also be made in the tender register.
- 26.27 All tenders are to be date stamped when opened; the date of opening is to be recorded in the tender register and all people present at the opening of a tender shall sign the tender register and the key pages of each copy of the tenders (including the summary page and any supporting correspondence). One copy of the tender and supporting documents shall be retained by the Head of Asset Management and Property Services. The Director/Chief Executive concerned, or an officer designated to undertake the tender evaluation shall sign for a copy of the tender and any supporting documents in the tender register which may then be taken for examination and evaluation.
- 26.28 All tender envelopes shall be retained along with the original tenders for a period of six years by the Head of Asset Management and Property Services. The officer receiving the tenders, in order for an evaluation of them to be undertaken, shall sign the tender register and record the number of tenders received.
- 26.29 The officer designated to undertake the tender evaluation shall arrange for the immediate tabulation and any necessary further financial examination and checking of each tender submitted to be undertaken by the Head of Finance where appropriate.
- 26.29A The paper processes and requirements relating to invitation and opening of tenders as above under 26.25, 26.26, 26.27 and 26.28 shall not apply to operation of electronic processes, provided these processes are undertaken within a system whose use has been authorised by the Chief Financial Officer and which includes secure email and document management environment to nationally approved standards and is in compliance with recognised protocols.

Contracts Register

26.30 A register of all contracts of a value in excess of £75,000 placed by the Council shall be kept and maintained by the Head of Legal Services. Such register shall for each contract specify:

- the name of the contractor;
- the works to be executed or the goods to be supplied;
- the contract value; and
- the start and end date of the Contract

26.31 The register shall be open to inspection by any Member of the Council.

Nominated Sub-Contractors and Suppliers

26.32 Where a sub-contractor or supplier is to be nominated to a main contractor, the provisions set out in paragraphs 26.33 to 26.35 below shall have effect.

26.33 Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier does not exceed £75,000 then, unless the appropriate Director/Chief Executive is of the opinion in respect of any particular nomination that it is not reasonably practicable to obtain competitive quotations, quotations shall be invited for the nomination of sub-contractor using the provisions of Contract Procedure Rule 26.9 to 26.11.

26.34 Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier exceeds £75,000 then, unless the Council, the Cabinet or a Committee or Sub-Committee duly authorised officer on their behalf determine in respect of any particular nomination of sub-contractor that it is not reasonably practicable to obtain competitive tenders, tenders shall be invited in accordance with Contract Procedure Rules 26.13 to 26.18 as the case may be and the provisions of Contract Procedure Rule 26.19 – 26.24 shall apply to tenders received under this Procedure Rule.

26.35 The terms of the invitation shall require an undertaking by the tenderer that if he/she is selected he/she will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against his own obligations under the main contract in relation to the work or goods included in the sub-contract.

Contract Documentation where Goods, Works or Services exceed £75,000 in value

26.36 Every contract which exceeds £75,000 in value or amount shall be:

- referred to the Head of Legal Services
- in writing; in a form to be approved by the Head of Legal Services; and
- if necessary, sealed with the Common Seal of the Council in pursuance of the Procedure Rules regulating the business and proceedings of the Council.
- and shall specify
- the work, goods or services to be provided
- the price to be paid, with a statement of discounts or other deductions: and
- the time or times within which the contract is to be performed.
- Under the Local Government Transparency Code 2014, all awards must be published on the Council's Website as part of a Quarterly Report.

- 26.37 Every other contract or order, except a contract required in extreme urgency or a contract of a trivial character (i.e. of a value less than £5,000), shall be in writing in a form approved by the Head of Legal Services or be signed by the Chief Finance Officer or other Director/Chief Executive, or the Head of Legal Services, (provided that a contract required in extreme urgency shall subsequently be confirmed in writing by the Chief Finance Officer or the Chief Executive or authorised Director or Head of Legal Services)
- 26.38 No Member of the Council shall enter orally or in writing into any contract on the Council's behalf.
- 26.39 In the case of contracts for the execution of work which exceeds £75,000 in value or amount, the Council will normally require and take sufficient security for their due performance. The decision to waive such requirement in any particular case shall be at the discretion of the Head of Finance in consultation with the Director/Chief Executive concerned.
- 26.40 Contracts for the execution of works which exceeds £75,000 in value or amount shall provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed.
- 26.41 Every written contract for the supply of goods or materials or the execution of works which exceeds £75,000 in value or amount shall contain the following clauses or clauses substantially to like effect:
- (i) should the contractor fail to deliver the goods or materials or any portion thereof within the time or times specified in the contract, the Council, without prejudice to any other remedy for breach of contract, shall be at liberty to determine the contract, either wholly or to the extent of such default, and to purchase other goods or materials, as the case may be, of the same or similar description to make good:
 - (a) such default; or
 - (b) in the event of the contract being wholly determined, the goods or materials remaining to be delivered. The clause shall further secure that the amount by which the cost of so purchasing other goods or materials exceeds the amount which would have been payable to the contractor in respect of the goods or materials, as the case may be, replaced by such purchase, if they had been delivered in accordance with the contract, shall be recoverable from the contractor.

British Standards or Equivalent

- 26.42 Where an appropriate British Standard issued by the British Standards Institution or an International Equivalent Acceptable Standard, current at the date of the tender, every contract shall require that all goods and materials used or supplied, and all the workmanship shall be at least of that standard.

Corrupt Practices

- 26.43 There shall be inserted in every written contract a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the contract or any other contract with the Council, or for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Council, or if the like acts shall have been done by any person employed by him acting on his behalf (whether with or without the knowledge of the contractor), or if in relation to any contract with the Council the contractor or any person employed by him or acting on his behalf shall have committed any offence under the Bribery Act 2010, or shall have given any

fee or reward the receipt of which is an offence under Section 117 of the Local Government Act, 1972.

Awards of Contracts and/or Extensions of Contracts

The following approval process shall apply to award all Contracts after satisfactory evaluation:

For Contract values not exceeding £5000 by the Budget Holder

For Contract values exceeding £5000 but not exceeding £75,000 by Head of Service

For Contract values exceeding £75,000 but not exceeding £200,000 by the Deputy Chief Executive/Chief Financial Officer

For Contract values exceeding £200,000 by a report to the Cabinet and approval by the Cabinet and the Council.

Where a Contract has no provision for extension and is required to be extended the approval for extension for equivalent values, approval is to be given by similar designated person(s) as above.

Miscellaneous

Assignment

26.44 The contractor shall not assign the contract or any part thereof or the benefit or burden thereof without the written consent of the Council;

the contractor shall not sublet the contract or any part thereof without the written consent of the architect, engineer or other supervising officer, such consent not to be unreasonably withheld;

the consent of the Council to assign shall be signified by the hand of the Head of Legal Services; and

the contractor shall recognise the freedom of its workpeople to be members of trades unions.

Data Protection

26.45 The Contractor shall be required to undertake to comply in all respects with the provisions of the Data Protection Act 1998 and to indemnify the Council against all actions costs expenses proceedings and demands which may be brought against the Council for breach of statutory duty under the Act which arises from the use disclosure or transfer of personal data by the Contractor their Servant or Agent. The Contractor shall agree that it shall not disclose any information obtained from the Council to any party beyond that which is necessary for the purposes of the Contract.

Human Rights

26.46 The Contractor shall be required to acknowledge that in carrying out its obligations under the Contract it will be acting on behalf of the Council and will comply with the provisions of the Human Rights Act 1998 as if it were the Council and will indemnify the Council against all actions costs expenses claims proceedings and demands which may be brought against the Council for breach of statutory duty under the Act which arises from acts or omissions by the Contractor his servants and agents under the Contract.

Equal Opportunities

26.47 In carrying out its obligations under the Contract the Contractor shall be required to comply with applicable requirements of the Race Relations (Amendment) Act 2000 and Equality Act 2010 and will comply with the Council's Equal Opportunities Policy or an equivalent policy accepted by the Council.

Acting on behalf of the Council the Contractor shall be required to ensure that it complies with the requirements placed on the Council under the Race Relations (Amendment) Act 2000, Equality Act 2010 and Section 17 of the Crime and Disorder Act 1998 and will indemnify the Council against all actions costs expenses claims proceedings and demands which may be brought against the Council for breach of statutory duty under the Act which arise from acts or omissions by the Contractor his servants and agents under the Contract.

Indemnity/Insurance

- 26.48 The Contractor shall be required to indemnify and keep indemnified the Council against injury to or death of any person, or loss of or damage to any property, arising out of any act, default or negligence of the Contractor, its employees or agents. In addition the contractor will indemnify the Council against all actions, claims, demands, proceedings, damages, costs, charges or expenses whatsoever, which result from the Contractor's failure, including failure that results in the Council being in breach of any statutory duty.
- 26.49 Without thereby limiting liability under this Condition and in order to effect the indemnities required, the Contractor shall be required to take out and maintain, employers liability insurance for a minimum sum of ten million pounds (£10m) and public liability insurance cover in a sum of five million pounds (£5m), for any one occurrence or series of occurrences, or appropriate amount to risks within the contract and where appropriate, professional indemnity cover in a sum not less than one hundred thousand pounds (£100,000). The insurance must be arranged with a reputable insurance company approved by the Council and the Contractor shall produce to the Council satisfactory evidence that the insurance has been taken out and is in force at all material times. Where appropriate, the Insurance cover must remain in place for a specified period of time after end of the Contract date.

Declaration of Interests

- 26.50 No officer shall take any personal or private benefit from any contract entered into by the Council or on its behalf with a third party.
- 26.51 The following must declare any interests that may affect the contract process;
- All staff, whether employed by the Council or otherwise, who play an influential role in any aspect of the tendering process;
 - All staff listed on a scheme of delegation;
 - External consultants, interims, temporary employees and representatives of bodies other than the Council whose work gives them influence over or information about any aspect of the contract and;
 - Council Members in accordance with the appropriate Code of Conduct for Members.
- 26.52 Directors will ensure that staff, consultants, interims, temporary employees and representatives of bodies other than the Council appointed or agreed by them, make declarations on appointment or on any change in circumstances; and will either certify them as acceptable or take necessary action in respect of potential conflicts of interest.
- 26.53 Directors will keep completed staff declarations on the individual's personnel file; and also maintain a central register of declarations indicating the names and grades of all those declaring and the nature of their declaration. Declarations of any consultants, interims, temporary employees or other bodies' representatives will be retained on the contract file.

Use of Framework Agreements

- 26.54 There are a number of Public Sector Framework Agreements that have been negotiated by Central Government agencies and other public bodies for use by all public authorities. These cover a wide variety of supplies and services and should provide value for money for the Council as the terms are negotiated on very high volumes.
- 26.55 The use of these agreements is encouraged as they have already been competitively tendered and contracts can be awarded against these agreements without the need for advertising and tendering. However officers must consider suitability for the requirements of the Council before using them. Where such frameworks are used, these procedure rules requiring a minimum number of quotations or tenders do not apply.

Consortium Contracts

- 26.56 The requirements in these procedure rules for obtaining a minimum number of quotes or tender shall not apply where:

The Council is part of a consortium of Council's contracting with the same contractor in respect of the provision of a particular good or service and where the Council is not the lead authority in the Consortium, in which case the lead authority's Contract Procedures will apply.

Officer Employment Procedure Rules

1. Recruitment and appointment

- (a) Declarations
 - (i) The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons.
 - (ii) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him/her.
- (b) Seeking support for appointment
 - (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
 - (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
 - (iii) Nothing in paragraphs (i) and (ii) above will preclude a Councillor or the Mayor from giving a written reference for a candidate for submission with an application for appointment.

2. Recruitment of Chief Executive and Chief Officers

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- (a) draw up a statement specifying:
 - (i) the duties of the Officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

3. Appointment of Chief Executive

- (a) The full Council will appoint the Chief Executive.
- (b) The full Council may only make or approve the appointment of the Chief Executive where no well-founded objection has been made by any Member of the Cabinet.

4. Appointment of Chief Officers and Service Heads

Appointment of Chief Officers and Service Heads is the responsibility of the Chief Executive or his/her nominee and such appointments will be made with the involvement of the Leader and the Cabinet Member with the appropriate Portfolio.

5. Other appointments

The appointment of Officers below Service Head (other than an assistant to the Mayor) is the responsibility of the Chief Executive or his/her nominee, and may not be made by Councillors.

6. Dismissals and Disciplinary Action: Senior Officers

- (a) The dismissal of the Chief Executive, Monitoring Officer and Chief Finance Officer ("the Senior Officers") shall be exercised by the Council itself and in accordance with the following provisions.
- (b) Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the dismissal of a Senior Officer, the Council must approve that dismissal before notice of dismissal is given to that person.
- (c) A Senior Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (d) A Senior Officer may not be dismissed by the Council unless the following procedure is complied with.
- (e) A Panel will be appointed for the purposes of advising the Council on matters relating to the dismissal of Senior Officers. Independent Persons (being persons appointed under section 28(7) Localism Act 2011) will be considered for appointment to the Panel with a view to appointing at least two such persons to the Panel. If there are fewer than two Independent Persons appointed by the Council, such Independent Persons as have been appointed by another authority or authorities may be considered for appointment to the Panel.
- (f) Independent Persons who have accepted an invitation to be appointed to the Panel will be appointed in accordance with the following priority order:-
 - an Independent Person who has been appointed by the Council and who is a local government elector;
 - any other Independent Person appointed by the Council;
 - an Independent Person appointed by another authority or authorities.
- (g) The Council is not required to appoint more than two Independent Persons but may do so.
- (h) The Council must appoint any Panel at least 20 working days before the relevant meeting.
- (i) Before the taking of a vote at the relevant meeting on whether or not to approve a dismissal, the Council must take into account, in particular:-
 - any advice, views or recommendations of the Panel;
 - the conclusions of any investigation into the proposed dismissal; and
 - any representations from the Senior Officer.
- (j) Any remuneration, allowances or fees paid by the Council to an Independent Person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of that person's role as an Independent Person under the Localism Act 2011.

7. Other Dismissals and Disciplinary Action

Councillors will not be involved in the dismissal of or disciplinary action against any Officer below Service Head except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals or disciplinary action.