
Constitution Part 3 – Procedure Rules

9 April 2025



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A – Council Procedure Rules

Types of Meeting

1. Annual Meeting of the Council

1.1 Timing

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 May.

1.2 Business

The Annual Meeting will:

- a) Elect a person to preside if the Mayor or Deputy Mayor of the Council are not present;
- b) Receive any declarations of interest;
- c) Elect the Mayor of the Council;
- d) Appoint the Deputy Mayor of the Council;
- e) Receive any announcements from the Mayor and/or the Chief Executive;
- f) Elect the Leader (where the term of office of the current Leader has expired or is vacant);
- g) Receive Leader's report on any appointment of the Deputy Leader and any appointments or changes to the Cabinet;
- h) 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 matter which are neither reserved to the Council nor are Executive Functions;
- i) Receive nominations of Councillors to serve on each Committee on a politically proportionate basis and outside bodies; and appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet;
- j) Consider any business set out in the notice convening the meeting.

2. Ordinary Meetings

2.1 Timing

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

2.2 Order of Business

The Summons for a Council meeting shall set out the items of business to be considered at that meeting. The order of the agenda will be:

- a) To choose someone to take the Chair if the Mayor and Deputy Mayor are absent;
- b) To deal with any business that is required by law to be dealt with before other business;
- c) To receive any declarations of interest;
- d) To approve and sign the Minutes of the last meeting of the Council as a correct record;
- e) Mayor's Announcements;
- f) Leader's Update;
- g) To received petitions under procedure rule 19 of this section A of this part of the Constitution;
- h) To answer Councillors questions under procedure rule 18 of this section A of this part of the Constitution;
- i) To answer public questions under procedure rule 20 of this section A of this part of the Constitution;
- j) To consider reports for officers;
- k) To consider recommendations from Cabinets and associated reports;
- l) To consider recommendations from Committees and associated reports;
- m) To consider motions in the order that they have been received;
- n) To receive Ward Councillor statements;
- o) To receive reports to the Council for information;
- p) To receive reports of any special urgency decisions taken for information;

- q) To deal with any business remaining from the last meeting;
- r) Any other business specified in the Summons.

2.3 Change in order of business

The order of items may be changed:

- a) At the discretion of the Mayor; or
- b) By motion. The motion must be moved, seconded and put to the vote without discussion. This motion must be in writing.

3. Extraordinary Meetings

3.1 Calling extraordinary meetings

Those listed below may request the Head of Paid Service to call Extraordinary Council meetings in addition to Ordinary meetings:

- a) The Council by resolution;
- b) The Mayor;
- c) The Head of Paid Service, the Monitoring Officer or Chief Finance Officer; and
- d) Any five Councillors, if they have signed a requisition presented to the Mayor and they have refused to call a meeting, or have failed to call a meeting within seven days of the presentation of the requisition.

3.2 Business

The business at such meetings shall be limited to the purposes for which the meeting was called as set out in the notice of the meeting.

Arrangements for meetings

4. Time and Place and Quorum of meetings

4.1 Place of meetings

The time and place of meetings will be determined by Head of Paid Service and will be notified in the summons.

4.2 Quorum

The quorum for a meeting is the number of Councillors required to be present before the meeting can take place or continue.

The quorum of a meeting will be a quarter of all members of the Council. This is currently 12.

If, during a Council meeting, the Mayor or another Councillor notices that there is not a quorum present, the Mayor must announce that this is the case and adjourn the meeting. If the Mayor does not set a time for the meeting to restart, any business that has not been dealt with will be adjourned to the next ordinary meeting of the Council.

5. Notice of and summons to meetings

5.1 Notice

The Head of Paid Service will give notice to the public of the time and place of the meeting of the Council in accordance with the Access to Information Procedure rules.

5.2 Summons

At least 5 clear days before a meeting the Head of Paid Service will send a summons signed by them to every Councillor. The summons will give the date, time and place of each meeting and will specify the business to be transacted and will be accompanied by such reports as are available. Want of summons on any Councillor will not affect the validity of a meeting of the Council.

6. Minutes

6.1 Signing

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.

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an extraordinary meeting, then the next following meeting will be treated as a suitable meeting relating to signing of minutes.

6.2 Order

The minutes will contain all motions and amendments in the exact form and order the

Mayor put them.

Motions

7. Motions without notice

7.1 Motions without notice required to be in writing

The following motions do not need to be submitted in writing before the meeting. They should however be proposed and seconded and put in writing before they are discussed:

- a) To move a motion about the accuracy of the minutes;
- b) To refer an item back to Cabinet or Committee for further consideration;
- c) To appoint a Committee of one or more of its members arising from any items in the Summons of the meeting;
- d) To receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;
- e) To suspend procedure rules in accordance with procedure rule 24 of this section A of this part of the Constitution;
- f) To exclude the public under Section 100A of the Local Government Act 1972 (as amended);
- g) To request a Councillor to stop speaking, or to leave the meeting, in accordance with procedure rule 16 of this section A of this part of the Constitution;
- h) To amend a motion; and
- i) To give consent of the Council where required under these procedure rules.

7.2 Motion without notice not required to be in writing

The following motions must be proposed and seconded but need not be in writing at all:

- a) To appoint a chair of the meeting;
- b) To ask permission to withdraw a motion;
- c) To move to the next item of business;
- d) To put to the vote the motion or amendment being discussed, in accordance with procedure rule 12.3 of this section A of this part of the Constitution;
- e) To adjourn the meeting; and
- f) To change the order or business under procedure rule 2.3 of this section A of this part of the Constitution.

8. Motions requiring written notice

8.1 Notice

Notice of any motion, except on which under these procedure rules can be moved without notice, must be given in writing or email to the Head of Paid Service before 12 noon **seven clear working days** before the date of the meeting. There will be entered into a book for public inspection.

8.2 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.

8.3 Scope

Every motion must relate to matters in which the Council has powers or duties and must not include declaratory statements relating to matters outside the ambit of the Council. Motions should be about something for which the Council has responsibilities, or which affects the Borough. Motions should be about a single discreet issue and not be in the opinion of the Head of Paid Service defamatory, illegal, improper, irregular, frivolous, offensive or otherwise out of order.

8.4 Length

No motions shall exceed 100 words in Length.

9. Previous decisions and motions

9.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of the Council within the past six months cannot be moved unless the notice of motion is signed by at least 15 Councillors.

9.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of the Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 15 Councillors. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for a further six months.

Rule of debate

10. Proposals and speeches

10.1 Motions or amendments

All motions and amendments must be proposed and seconded.

10.2 Seconder's speech

A Councillor who seconds a motion or an amendment, does not have to speak immediately, but may reserve their right to speak later in the debate.

10.3 One Councillor to speak at a time

If two or more Councillors indicate the wish to speak together, the Mayor will ask one to speak and the other should wait to be called to speak by the Mayor. When a Councillor is speaking, other Councillors must remain silent unless to make a point of order or to give a personal explanation.

10.4 Content and length of speeches

A Councillor must only speak on the subject under discussion, in personal explanation or on a point of order. A Councillor may only speak for five minutes. A mover of a motion must limit their speech and reply to the debate to five minutes each, unless the Council allows otherwise.

For the budget setting original motion, the proposer of the budget (being either the Leader or the Portfolio Holder whose remit includes finance) and any opposition Group Leader speech is extended to 10 minutes.

10.5 When a Councillor may speak again

A Councillor may only speak once on any motion whilst it is the subject of debate. The exception to this rule are:

- a) If they wish to speak on an amendment moved by another Councillor;
- b) If the motion has been amended since they last spoke, to move a further amendment;
- c) If their first speech was on an amendment moved by another Councillor, they may speak to the main motion, whether or not the amendment was carried;
- d) To exercise their right of reply;
- e) On a point of order; and
- f) In personal explanation.

11. Amendments, alterations and withdrawal

11.1 Amendments to motions

Amendments must be relevant to the Motion. They may only be moved:

- a) To refer a subject of debate to a Committee for consideration or resolution;
- b) To leave out words;
- c) To leave out words and insert or add others; or
- d) To insert or add words.

An amendment must only be used to make changes to the substance of the motion. It must not be used to simply negate the motion.

Only one amendment may be moved and discussed at a time. A Councillor must not move a further amendment until the amendment under discussion has been dealt with.

If an amendment is lost, other amendments can be moved on the original motion. If an amendment is carried the amended motion takes the place of the original motion. The amended motion then becomes the motion upon which any other amendment can be moved.

11.2 Alteration of a motion

If Council gives consent (which must be given without discussion) a Councillor may:

- a) Alter a motion which they have submitted in writing before it is moved;
- b) Alter a motion which they have moved, with the agreement of the seconder.

Any alteration made by the mover of a motion must be one that could be moved as an amendment to the motion.

11.3 Withdrawal of a motion

A motion or an amendment, once moved and seconded, may be withdrawn by the Councillor who moved it, with the consent of the Council. This must be without discussion. No Councillor can speak about the motion once permission has been given to withdraw the motion.

A Councillor who submitted a motion may withdraw the submitted motion before it is moved.

12. Right of reply, motions during debate and closure

12.1 Right of reply

The mover of a motion has a right of reply at the end of debate on the motion, just before it is put to the vote.

The mover of an amendment has the right of reply on their amendment. The Mayor will not call upon the mover of the amendment to reply, until the mover of the motion has had the opportunity to speak on the amendment.

The mover of an amendment or motion must not introduce any new issues in their right of reply.

12.2 Motions which may be moved during the debate

When a motion is being debated, no other motion shall be moved, except the following:

- a) To amend the motion;
- b) To adjourn the meeting;
- c) A closure motion to vote on the motion;
- d) To request a Councillor not to speak again;
- e) To request a Councillor to leave the meeting;

- f) To exclude the press and the public and
- g) To ask permission to withdraw a motion.

Any such motion proposed must be seconded and voted upon without debate.

12.3 Closure motion

At the end of any speech a Councillor, whether or not they have spoken to the motion or amendment, may moved 'that the motion or amendment be voted upon'.

If this motion is seconded, and the Mayor thinks that the matter has been discussed sufficiently, the Mayor must ask the Council to vote on the motion that a vote be taken. If the closure motion that the vote be taken is passed, before the vote is taken the Mayor must:

- a) If it is a motion, allow the mover of the motion a right of reply;
- b) If it is an amendment, allow the mover of the motion to speak if they have not already done so, and then allow the mover of the amendment a right of reply.

13. Points of order and personal explanation

13.1 Points of order

A Councillor should stand if they have a point of order and must be heard immediately.

A point of order must relate to an alleged breach of these procedure rules or statutory provision. The Councillor must specify what procedural rule or statutory provision they consider to have been breached and how they consider it to have been breached.

The ruling of the Mayor on the matter will be final and shall not be open for discussion.

13.2 Personal explanation

A Councillor should stand if they want to give a personal explanation.

A personal explanation must relate to part of a material part of an earlier speech they have made which it appears to have been misunderstood.

The ruling of the Mayor on the admissibility of a personal explanation will be final and shall not be open to discussion.

14. Voting

14.1 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.

14.2 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.

14.3 Voting

Unless a recorded vote is requested, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting or if available via any electronic voting system in place.

14.4 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.

14.5 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, against, or abstained from voting.

14.6 Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority vote 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.

14.7 Recorded votes at budget meeting

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

Behaviour at meetings

15. Respect and standing

15.1 Respect for the Chair

Councillors must always address the Mayor. Whenever the Mayor stands up during a debate, any Councillor must stop speaking, and the Council must be silent.

15.2 Standing to speak

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

16. Disorderly conduct

16.1 Councillors – not heard further

The Mayor should advise the Council if they consider that, during a meeting of the Council a Councillor is:

- a) Misconducting themselves by ignoring the ruling of the Mayor; or
- b) Behaving irregularly, improperly, or offensively; or
- c) Is willfully obstructing the business of the Council.

The Mayor, or any Councillor may move that the Councillor named must not speak again on the matter being discussed. If this is seconded it must be put to the vote without being discussed.

16.2 Councillors – leave the meeting/adjourn

If the Councillor in question continues their misconduct after such a motion has been carried, the Mayor shall:

- a) Move that the Councillor named must leave the meeting. If this is seconded this is put to the vote without discussion; or
- b) Adjourn the meeting for such time that they consider necessary.

16.3 Councillors – general disturbance

If there is a general disturbance which the Mayor feels makes it impossible to continue with the business of the meeting, they may, without debate, adjourn the meeting for any length of time that they consider necessary.

16.4 Disturbance by the public

If members of the public interrupt the proceedings of a meeting, the Mayor should inform them that if they do not stop, they will be asked to leave the meeting. If they continue the interruption, the Mayor may order that member of the public to leave the Council Chamber. If there is a general disturbance in the part of the Chamber open to the public, the Mayor must order everyone in that part of the Chamber to leave.

16.5 Use of audio and recording equipment

Members of the public are permitted, subject to appropriate safeguards, to film or record the public elements 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 shall request that electronic devices or equipment are operated as unobtrusively as possible.

Questions from Councillors and Ward Statements

17. Without notice

17.1 On reports of Cabinet and other committees

A Councillor may ask the Leader or any Chair of a Committee or Sub-Committee any question without notice on any item on the report of the Cabinet or a Committee or Sub-Committee when that item is being presented to Council.

18. Questions to Council on notice

18.1 Question on notice

Subject to the provision of these procedure rules, a Councillor may ask a question about any matter relating to the Council's powers and duties; or which affects the Borough or its residents or which affects an organisation on which the Council is represented by a Councillor appointed or nominated by it.

No question will be allowed if in the opinion of the Head of Paid Service, it is defamatory, illegal, improper, irregular, frivolous, offensive or otherwise out of order.

No question shall relate to any individual planning application or licensing application.

No question shall exceed 100 words.

18.2 Response

Any such question may be answered by the following as appropriate:

- a) The Leader;
- b) Portfolio holder;
- c) Committee or Sub-Committee Chair; or
- d) Any Councillor appointed or nominated by the Council to an outside body.

Each question shall be put and answered without discussion, but those who are responding may do so in the following ways:

- a) Give an oral answer; or
- b) Where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

Any questions remaining to be answered after the time limit will be answered in writing.

18.3 Submission

A Councillor may only ask a question under procedure rule 18.1 of section A of this part of the procedure rules, if they have given notice in writing (committee@elmbridge.gov.uk) to the Proper Officer by 9.00 am four clear working days prior to the Council meeting.

A Councillor cannot ask more than one question at any one Council meeting.

18.4 Time limit

The time limit at each Council meeting for questions from Councillors will be 30 minutes. This time limit cannot be extended. There is also a time limit of five minutes for any response to an individual question.

18.5 Asking the question and supplementary

The Councillor who submitted the question shall ask the question themselves. In their absence, the question shall be asked by the Group Leader or the Group Leader's nominee. To clarify a reply to question, the questioner (being the Councillor who submitted the question and is present and not any person reading on their behalf) may ask one supplementary question. There shall be no other supplementary questions.

18.6 Order of questions

The questions will be asked by alternating by individual question between those submitted by the administration and those of the opposition. Whose question is asked first at any meeting will also alternate between the administration and those of the opposition.

18.7 Ward Statements

A Councillor may at an ordinary Council meeting make a statement on a matter of importance relating to their ward provided they have given notice of the intention to do so in writing (committee@elmbridge.gov.uk) to the Proper Officer by 9.00 am four clear working days prior to the Council meeting. Such notice must include the title or subject to which their ward statement will refer to.

No statement shall be no longer than 2 minutes.

There shall be no comments made or questions asked on the statement.

No statement shall relate to:

- any individual planning application or licensing application;
- any recognisable individual; or
- any matter already discussed as part of the agenda for the meeting.

Public participation

19. Petitions

19.1 Petitions for council debate

The Council has a Petition Scheme that sets out how petitions will be discussed by the Council.

19.2 Order of receipt

Petitions will be debated in the order that they are received.

Application to Committees, substitutions, and recommendations

20. Application to committees

20.1 Committees and Sub-Committees

The following procedure rules shall apply to meetings of Committees of the Council and their Sub-Committees:

4, 5, 6, 7, 9, 10 – 14 (except the time limit for speeches and not speaking more than once) and 16.

20.2 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 three Members;
- c) That for the exercise of delegated functions, the quorum of the Planning Committee shall be nine Members.

20.3 Cancellation of Committee meeting

The Chair of a Committee or Sub-Committee, or in their absence the Vice-Chair, shall be authorised, after consultation with the Chief Executive, to cancel a meeting of a standing Committee or Sub-Committee in cases where they are 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.

21. Recommendations for Committees and Cabinet

21.1 Consideration to recommendation

When a committee or Cabinet makes a recommendation to Council, an item shall be included on the agenda for the next Council meeting and a report on the matter including the recommendation, shall be circulated with the agenda for the Council meeting at which the recommendation shall be considered.

21.2 Who moves

Where a recommendation is made to the Council by a Committee, it will be moved by the Chair or Vice-Chair of that Committee or the relevant Portfolio Holder.

Where a recommendation is made to the Council by an officer in a report, it will be moved by the Leader or the relevant Portfolio Holder.

21.3 Amendment

Any amendment to a recommendation to Council must be put in writing and made available to the Council before it is discussed.

21.4 Rules of Debate

The rules for debating recommendations are the same as those applying to motions or amendments.

22. Substitutions

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”).

22.1 Appointment of substitute

- 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 their nominated representative, of the replacement substitution of one Councillor from their Group for another Councillor from their Group.
- b) A temporary substitution may be made without notice in advance but shall be communicated at the start of the meeting by the substitute Councillor. Wherever possible, Councillors 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.
- c) A replacement shall continue in force until further notice.
- d) A temporary substitution shall apply for a particular meeting only.
- e) At the beginning of the relevant meeting the Chair shall advise the meeting of the details of the substitution or replacement. Details of substitutions or replacements will be minuted.
- f) In the case of temporary substitutions, if the original Councillor is present at that point they 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.
- g) Where a temporary substitution has been communicated in advance and reported by the Chair at the start of the meeting, the substitution shall not be invalidated by the late arrival of the substitute at the meeting.
- h) The appointment of a replacement 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.
- i) 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 applied 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.
- j) Temporary substitutions are not acceptable on the Audit and Standards Committee, the Licensing Committees and its Sub-Committees, or the Shareholder Board.

Suspension and amendment

23. Suspension

23.1 Suspension of procedure rules

The Council may, by passing a resolution, suspend all or any of its Procedure Rules, if two thirds of the Councillors present at a meeting of the Council, at the time the vote is taken, vote to give permission to do so.

24. Amendment

24.1 Amendment of procedure rules

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

B – Access to Information Procedure Rules

1. Scope

Rules 2 to 11 apply to all meetings of the Council, the Overview and Scrutiny Committee (including formally constituted Task Groups), the Audit and Standards Committee, the Regulatory Committees and meetings of the Cabinet and its committees.

2. Additional Rights to Information

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

3. Rights of the Public to Attend Meetings

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

4. Notices of Meetings

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

5. Access to Agenda and Reports Before the Meeting

The Council will make copies of the agenda and reports open to the public on its website at least five clear days before the meeting.

If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

Where reports are prepared after the summons has been sent out, the Head of Democratic Services shall make such report available to the public on the Council's website as soon as the report is completed and made available to Councillors.

6. Supply of Copies to the public

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 the Councillors in connection with an item,

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

7. Public Access to Minutes etc. After the Meeting

The Council will make available for six years after the meeting:

- a) The minutes of the meeting or record of decisions taken, for all meetings of the Council, 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

Every report will set out a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the writer of the report:

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

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

8.2 Public Inspection of background papers

Background papers will remain available for public inspection for four years after the date of the meeting. Background papers for meetings of the Council will be published on the Council's website when the agenda is published, and copies will be made available at the civic centre or by email from committee@elmbridge.gov.uk.

9. Summary of Rights of the Public

A written summary of the public's rights to attend meetings, and to inspect and copy documents will 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 the public

The public must be excluded from meetings wherever it is likely, in the 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 the public

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

In determining whether information is to be treated as exempt, Councillors will consider the extent to which, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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 due to a Court Order or by virtue of any enactment.

10.4 Meaning of Exempt Information

The Council may consider information as Exempt where one of 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 any 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.

Paragraph	Description
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 their opinion, relate to the 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

In addition to Rule 2-11, Rules 13 – 24 below apply to the Cabinet and its Committees.

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 has been published in the Forward Plan in connection with the matter in question at least 28 clear days before the date when the decision is to be taken; and
- b) 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, 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; and
- d) A list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan will be published at least fourteen days before the start of the period covered.

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;
- 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 for the public at the offices of the Council and published the notice on the Council website; and
- d) Five clear days have elapsed following the day on which the Proper Officer made the notice available.

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

16. Special Urgency

16.1 Key Decisions

If by virtue of the date by which a decision must be taken, and Rule 15 (General Exception Key Decisions) cannot be followed, then the decision can only be taken if the Chair of the body making the decision (or their appointed representative) obtains

the agreement of the Chair (or in their absence, the Vice-Chair) of the Overview and Scrutiny Committee, that the taking of the decision is urgent and cannot be reasonably deferred.

If the Chair or Vice-Chair of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor, or in their absence, their deputy is sufficient.

As soon as reasonably practicable after the Proper Officer has obtained agreement, they must make a notice that sets out the reasons why normal publicity was impracticable, at both the offices of the Council and on the Council website.

When an urgent Key Decision needs to be taken, authority may be delegated to the Leader (or in their absence, their appointed representative) and the relevant Portfolio Holder (or in their absence, another Member of the Cabinet), who then may take the decision.

Where a Key Decision is taken in accordance with these Procedure Rules, the decision will then not be subject to the 'Call-In' Procedure. A decision is also urgent if any delay is likely to be caused by the 'Call-In' Procedure would seriously prejudice the Council 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 the urgency.

16.2 Non Key Decisions

Where urgent decisions need to be taken, which are not Key Decisions, but are still executive functions (i.e. functions of the Cabinet), and which cannot wait for the next Cabinet Meeting, authority may be delegated to the appropriate member of the Council Management Board after consultation and agreement with their Leader (or in their absence, their nominated representative) and the relevant Portfolio Holder (or in their absence, another Member of the Cabinet), to take 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 is likely to be caused by the 'Call-In' Procedure would seriously prejudice the Council 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 the urgency.

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 or Deputy Mayor in accordance with Rule 16,

Then 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. This may be 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 at the following meeting.

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 reason 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 Rules 16 (special urgency) in the preceding three months.

The report will include the number of decisions 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 and member of the decision-making body, or Cabinet Member consulted by the decision-making body. In respect of any declared conflict of interest, a note of dispensations granted by the Head of Paid Service must be made.

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 Council website with a statement of reasons for the meeting being held in private.

At least five days before a private meeting, a further notice of intention to hold the meeting in private must be published on the Council 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 with the agreement of the Chairman of the Overview and Scrutiny Committee. If they are unable to act, the

agreement of the Mayor or Deputy Mayor must be obtained. The relevant party (the Chairman of the Overview and Scrutiny Committee, or in their absence, the Mayor or Deputy Mayor) must agree that the meeting is urgent and cannot be reasonably deferred.

Following such an agreement, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred shall be published on the Council website.

21. Attendance at Private Meetings of the Cabinet

All Members of the Cabinet will be served notice of all private meetings of Committees of the Cabinet, whether or not they are Members of that Committee.

All Members of the Cabinet are entitled to attend a private meeting of any Committee of the Cabinet.

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 the notice is served on Members of the Cabinet.

Where a matter is under consideration at a private meeting of the Cabinet, or a Committee of it, and is within the remit of the Overview and Scrutiny Committee or any of the Sub-Committees, any Member of that Committee or Sub-Committee may attend that private meeting with the consent of the person presiding, and speak. This may only occur where those present agree.

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 reasonably notice that a meeting is to take place.

A private Cabinet meeting may only take place in the presence of the Proper Officer or their nominee with the 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 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

The rights of a Councillor are additions to any other right they may have.

24. Proper Officer

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

C – 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 Part 3 of this Constitution. 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 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, by including it in the Forward Plan, and by publishing it at the Council's offices, and publicising it by other methods, for example, on the Council's website and in the local press. 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 decide firm proposals having regard to the responses to that consultation. If the Overview and Scrutiny Committee wishes to respond to the Cabinet during that consultation process, then it may do so. The Overview and Scrutiny Committee have responsibility for their own work programme, therefore, they may investigate, research, or report in detail with policy recommendations before the end of the consultation period.
- c) The Cabinet will take any response from the Overview and Scrutiny Committee into consideration when deciding on the firm proposals to be submitted to the Council. The Cabinet's report to the Council will reflect the comments made by consultees and the Cabinet's response.
- d) Once the Cabinet has confirmed the firm proposals, the Proper Officer will refer to them at the earliest opportunity for the Council's decision.

- e) The Council may adopt, amend the Cabinet's proposals, or refer back to the Cabinet for further consideration when reaching a decision. The Council may also, in-principle, substitute its own proposals in their place.
- f) If the Council accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. In any other case, the Council may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority vote at the relevant meeting.
- g) The decision will be publicised in accordance with access to information procedure rules and a copy shall be given to the Leader.
- h) 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 they object to the decision becoming effective and provides their reasoning.
- i) In that case, the Proper Officer will call a Council meeting at the earliest opportunity. The Council will be required to reconsider its decision and the Leader's written submission. The Council may:
 - i. Approve the Cabinet's recommendation by a simple majority vote at the meeting; or
 - ii. Approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.
- j) The decision shall then be made public in accordance with the access to information procedure rules and shall be implemented immediately.
- k) Any other changes to the Budget and Policy Framework are reserved to the Council.

3. Decisions outside the Budget or Policy Framework

The Cabinet, and any Officers, or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework.

If any of the above-mentioned bodies or persons wishes to make a decision which is contrary to the Policy Framework, or is contrary to or not wholly in accordance with the Budget approved by the Council, then that decision may only be taken by the Council subject to paragraph 4 below.

If the Cabinet, and any Officers, 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 is 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

The Cabinet, a Committee of the Cabinet, Officers, or joint arrangements discharging executive functions may take a decision which is contrary to the Council's Policy Framework or is contrary to or not wholly in accordance with the Budget approved by full Council if the decision is a matter of urgency.

The decision may only be taken if:

- a) It is not practical to convene a quorate meeting of the Council,
- b) The Chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency,

The record of the decision must include the reasons why it is not practical to convene a quorate meeting of the Council and the Chairman of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency.

In the absence of the Chairman of the Overview and Scrutiny Committee, the consent of the Mayor will be sufficient. If both the Mayor and the Chairman of the Overview and Scrutiny Committee are absent, the Deputy Mayor may consent in their place.

Following the decision, the decision maker 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. Call-In of decisions outside the Budget or Policy Framework

If the Cabinet makes or plans to make a decision that is contrary to the Policy Framework or is contrary to or not wholly in accordance with the Council's Budget, the Overview and Scrutiny Committee may seek advice from the Monitoring Officer and/or the Chief Finance Officer.

Regarding functions that are the responsibility of the Cabinet, the Monitoring Officer's report or Chief Finance Officer's report shall be made to the Cabinet, along 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 prepare a report to the Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that a decision was a departure from the Budget or Policy Framework. If the Monitoring Officer or the Chief Finance Officer conclude that it was not a departure from the Budget or Policy framework, then the Cabinet must prepare a report to the Overview and Scrutiny Committee.

The Overview and Scrutiny Committee may refer the matter to the Council in the following circumstances:

- a) If the decision is yet to be made; or
- b) If the decision has been made but it not yet implemented;

And the advice from the Monitoring Officer and/or Chief Finance Officer is that the decision is or would be contrary to the Policy Framework, or is contrary to or not wholly in accordance with the Budget.

In such cases, no further action will be taken in respect of the decision or its implementation until the Council has 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 proposal, and the advice of the Monitoring Officer and/or Chief Finance Officer. The Council may either:

- a) 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

- b) Amend the Council's Financial Regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree the decision with immediate effect. In this case, no further action is required save that the decision of the Council be mintued and circulated to all Councillors in the normal way; or
- c) Where the Council accepts that the decision or proposal is contrary to the Policy Framework, or is contrary to or not wholly in accordance with the Budget, and does not amend the existing framework to accommodate it, the Council may require the Cabinet to consider the matter in accordance with the advice of either the Monitoring Officer or the Chief Finance Officer.

D – Cabinet Procedure Rules

How does the Cabinet Operate?

1. Who may make Executive Decisions?

The arrangements for the discharge of Executive Functions are set out in part 2 of this constitution.

2. Allocations of Cabinet Portfolios by the Leader

At any meeting of the Council, the Leader may present to the Council a written record of any:

- a) appointments or changes to the Cabinet,
- b) allocation of portfolios,
- c) exercise of powers by individual cabinet members, and
- d) the grant of executive powers to Officers.

3. Sub-delegation of Executive Functions

Where the Cabinet or a Committee of the Cabinet is responsible for an Executive Function, they may delegate further to a joint arrangement or an Officer.

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.

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.

Even where executive functions have been delegated, this does not prevent the discharge of delegated functions by the person or body who delegated it.

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.
- b) If the Leader is able to decide whether to delegate executive functions, they 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 include:
 - i. The extent of the amendment to the Scheme of Delegation;
 - ii. Whether any withdrawal of delegation will take place from any person, body, committee, or from the Cabinet.

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 they have served it on the relevant Chair.

5. Conflicts of Interest

Where the Leader has a conflict of interest, or if every Member of the Cabinet has a conflict of interest, this should be dealt with as set out in the Councillor Code of Conduct in Part 4 of this Constitution.

If the exercise of an Executive function has been delegated to a Committee of the Cabinet, or an Officer, and a conflict of interest should 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 Councillor Code of Conduct in Part 4 of this Constitution.

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 Civic Centre or alternative as indicated in the summons for the meeting.

7. Private meetings of the Cabinet

Meetings or parts of meetings 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).

Confidential or exempt business require advice notice of 28 days under the above provisions.

A further notice of five clear days before the meeting is required unless the giving of such notice is impracticable and the approval of the Chairman of the Overview and Scrutiny Committee is obtained (or, in their absence, the consent of the Mayor or Deputy Mayor).

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).

9. How are decisions to be taken by the Cabinet?

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 this part of the Constitution.

Where Executive Decisions are delegated to a Committee of the Cabinet, the rules apply to Executive Decisions taken by them shall be the same as those apply to the Cabinet as a Whole.

The Leader, or in the Leader's absence, the Member chairing the meeting, may have a casting or second vote in the event of equality of votes.

How are Cabinet Meetings Conducted?

10. Who presides?

If the Leader is present, they will preside. In their absence, then a person appointed to do so by those present shall preside.

11. Who may attend?

These details can be found in the Access to Information Rules in this Part of this Constitution.

A Councillor who has requested to do so and has submitted the required notice has the right to attend.

12. 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 in this Part 3 of this Constitution;
- c) Consideration of recommendations from the Overview and Scrutiny Committee;
- d) Matters set out in the agenda for the meeting, which shall indicate which are Key Decisions and which are not in accordance with the Access to Information Rules set out in this Part of this Constitution; and
- e) Matters set out in the agenda for the meeting, which shall indicate which are Relevant Decisions in accordance with the Protocol on Cabinet Decision-Making.

13. 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 the following details:

- a) The nature and extent of the consultation with stakeholders;
- b) The nature and extent of the consultation with the Overview and Scrutiny Committee; and

- c) 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.

14. Who can put items on the Cabinet agenda?

The Leader may put on the agenda of any Cabinet meeting any matter which they wish, whether or not authority has been delegated to the Cabinet, a Committee of the Cabinet, or an 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 they receive such a request, the Proper Officer shall comply.

The Proper Officer shall ensure 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.

15. Who may speak at Cabinet Meetings?

- a) The Leader or any other Cabinet Member.
- b) Any Councillor or Officer who has an item included on the Cabinet agenda in accordance with Cabinet Procedure Rule 14.
- c) Ward Councillor may speak on Cabinet agenda items relating to matters concerning their particular ward.
- d) Chair and Vice-Chair of Committee 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 the Overview and Scrutiny members on a subject to be discussed at the Cabinet Meeting.
- e) Group Leaders may speak on issues related to the Council's Political Groups.
- f) Any Councillor at the discretion of the chair.

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 name to 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 meeting of the Cabinet or Committee of the Council.

Where the Leader or Chair 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. They 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 the 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 a 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 to consider the issue.

Proper Officer

For the purposes of these Procedure Rules, the Proper Officer shall be the Chief Executive or their nominated Officer.

E – Overview and Scrutiny Procedure Rules

1. What will be the number and arrangement for Overview and Scrutiny Committee?

The Council will appoint at least one Overview and Scrutiny Committee. Overview and Scrutiny Committees may also be appointed for a fixed period, on the expiry of which, they shall cease to exist.

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

The Overview and Scrutiny Committee shall perform all overview and scrutiny

functions on behalf of the Council. They may also appoint Sub-Committees and Task Groups as it considers appropriate to fulfil the overview and scrutiny functions.

The Overview and Scrutiny Committee shall have the Terms of Reference set out in Part 2 of this Constitution.

2. Who may sit on Overview and Scrutiny Committee?

All Councillors, except members of the Cabinet, may be members of the Overview and Scrutiny Committee.

No Councillor may be involved in scrutinising a decision with which they have been directly involved.

3. Co-optees

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

4. Meetings of the Overview and Scrutiny Committees

The Meetings of the Overview and Scrutiny Committee 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).

Extraordinary meetings may be called from time to time as and when required.

An Overview and Scrutiny Committee meeting may be called by:

- a) The Chairman of the Overview and Scrutiny Committee;
- b) Any five Councillors; or
- c) The Proper Officer

If they consider it necessary or appropriate.

5. Who chairs Overview and Scrutiny Committee meetings?

The Chair and the Vice-Chair of the Overview and Scrutiny Committee and their Sub-Committees will be drawn from among the Councillors sitting on the Committee or

Sub-Committee, and subject to the following requirement, the Committee and Sub-Committee may appoint such a person as it considers appropriate as the Chair and Vice-Chair, in accordance with the Council Procedure Rules.

At any one time the Chair of the Overview and Scrutiny Committee shall be chosen from an opposition party.

6. Work Programme

The Overview and Scrutiny Committee will be responsible for setting their own work programme. The Sub-Committees of the Overview and Scrutiny Committees will also set their own work programmes, subject to their specific parent committee. In doing so, the relevant committee shall take into account the wishes of the members of that committee who are not members of the largest political group on the Council.

7. Agenda items

Any Councillor shall be entitled to give notice to the Proper Officer that they wish for an item, to be on the agenda of the next available meeting of the Committee or Sub-Committee, provided that it is relevant to the functions 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.

The Councillor that submitted the item shall then be entitled to present their item to the Committee or Sub-Committee.

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

8. Policy Review and Development

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.

Regarding the development of the Council's approach to other matters, that do not form part of the 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.

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. The Overview and Scrutiny Committee may:

- a) Go on site visits;
- b) Conduct public surveys;
- c) Hold public meetings;
- d) Commission research;
- e) Do all other things that it reasonably considers necessary to inform its deliberations;
- f) Ask witnesses to attend to address it on any matter under consideration; and
- g) Pay any advisors, assessors and witnesses a reasonable fee for their assistance in its deliberations.

9. Reports from Overview and Scrutiny Committee

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, provided that the proposals are consistent with the existing Budget and Policy Framework, or to the Council as appropriate, for example, if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework. In doing so, it must have regard to the resources available to the Council.

The report will specify if there are any recommendations being made which are different from the professional opinion and guidance given as part of the review.

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.

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.

10. Rights of the Overview and Scrutiny Committee

In addition to their rights as Councillors, members of the Overview and Scrutiny Committee have the following additional rights:

- a) To documents; and
- b) To notice of meetings (as set out in the Access to Information Procedure Rules in this Part of this Constitution).

Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Committee as appropriate, depending on the particular matter under consideration.

11. Councillors and Officers giving account

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.

In addition to reviewing documentation, in fulfilling the scrutiny role, it may require any (other) member of the Cabinet, the Chief Executive, or any senior Officer to attend before it to explain in relation to the matters within their remit:

- a) Any particular decision or series of decisions;
- b) The extent to which the actions taken implement Council policy; and/or
- c) Their performance,

And it is the duty of those persons to attend if so required.

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 15 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are 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 requires production of a report, then the Councillor or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

Where, in exceptional circumstances, the Councillor or Officer is unable to attend on the required date, the Overview and Scrutiny Committee may arrange an alternative

date for attendance, within a reasonable period, with the Councillor or Officer concerned.

12. Call In

The Overview and Scrutiny Committee shall be entitled to consider any proposed action 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 the Council;
- b) The decisions of the Cabinet made at a Cabinet meeting will be published within four working days of the Cabinet meeting, and these may be implemented after nine working days following a Cabinet meeting (i.e. implemented on the tenth working day) provided that 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'.

12.1 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 that has been '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', provided that there is no ordinary meeting of that Overview and Scrutiny Committee scheduled in that period.

The timescale may be extended in exceptional circumstances, if agreed by the Leader and the Chair of the Overview and Scrutiny Committee.

When 'calling in' a Cabinet decision for review, the five Members calling in that decision must submit a 'call in' form (which includes email) that:

- a) Is signed (which can include e-signature/email notification) and dated by each of the five Members;
- b) Includes their reasons for requiring a review;
- c) Is submitted to the Monitoring Officer, who will advise the Members on whether the correct procedure has been followed;
- d) Indicates in the 'call in notice' any information that the Members consider that

- the Overview and Scrutiny Committee require to conduct the relevant review, in addition to the written report made by the Officers to the Cabinet; and
- e) Indicate whether they wish the Leader or the relevant Portfolio Holder to attend the Overview and Scrutiny Committee meeting.

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

When a Cabinet decision is 'called in' for review, the Chair of the Overview and Scrutiny Committee may arrange for any additional independent information they consider necessary to be made available to the Committee when it meets.

The Chair may also facilitate the contribution from another Committee, where that committee has an interest in the subject matter of the 'call in'. For example, the Planning Committee in matters connected with Local Development Framework preparation.

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

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

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

12.2 Urgent Decisions

Where the Cabinet is required to take an urgent decision, the decision may be taken in consultation and agreement with the Chairman of the Overview and Scrutiny Committee to avoid the need for the urgent decision to be 'called in'.

This immediately implements the decision.

The record of the decision and the notice which makes the decision public shall

include that the decision is urgent and therefore, not subject to a 'call in', if this is the opinion of the decision-making body. The notice shall also include:

- a) The date on which it is published;
- b) The date on which the decision will come into force;

The decision will then be implemented.

Decisions made as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for the urgency.

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

A working day means Monday to Friday, between the hours of 9.00am and 5.15pm, not including public or bank holidays.

13. Procedure at the Overview and Scrutiny Committee Meetings

The Overview and Scrutiny Committee and Sub-Committees shall consider the following business:

- a) Minutes of the last meeting;
- b) Declarations of interest;
- c) Consideration of any matter referred to the Committee for a decision in relation to the 'call in' of a decision;
- d) Responses of the Cabinet to reports of the Overview and Scrutiny Committee; and
- e) The business otherwise set out in the agenda for the meeting.

Where the Overview and Scrutiny Committee conducts investigations (for example, with a view to policy development), the Committee may also ask people to attend and give evidence at Committee meetings which are to be conducted with the following principles:

- a) That the investigation be conducted fairly, and all Members of the Committee be given the opportunity to ask questions of those attending, and to contribute and speak;
- b) That those assisting the Committee by giving evidence be treated with respect

- and courtesy; and
- c) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

Following any investigation or review, the Committee or Sub-Committee shall prepare a report for submission to the Cabinet and/or the Council as appropriate and shall make its report and findings public.

14. Councillor Call for Action

In addition to the right to place agenda items under Rule 8, the Overview and Scrutiny Committee shall make provisions for 'Councillor Call to 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 Councillor to refer to the Overview and Scrutiny Committee of which they are not a member of 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 Councillor 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 Councillor of its decision and the reasons for that decision. The Committee must provide the Councillor with a copy of any report or recommendations which it makes to the Council or the Cabinet in relation to the matter.

A '**Local Government Matter**', in relation to a Councillor means a matter which:

- a) Relates to the discharge of any functions of the Council;
- b) Affects all or part of the electoral area for which the Councillor is elected, or any person who lives or works in that area;
- c) Is not an Excluded Matter.

An '**Excluded Matter**' means any matter which is:

- a) A local crime and disorder matter within the meaning of Section 19 of the 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.

14. 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.

F – Financial Procedure Rules

See separate document.

G - Contract Standing Orders

See separate document.

H – Officer Employment Procedure Rules

1. Recruitment and Appointment

Declarations:

- a) 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, sibling, uncle, aunt, niece, nephew or partner of an existing Councillor or Officer of the Council.
- b) No candidate that is related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer, or an Officer nominated by them.

Seeking support for appointment:

- a) Subject to paragraph c) below, 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.
- b) Subject to paragraph c) below, no Councillor will seek support for any person for any appointment with the Council.
- c) Nothing in paragraphs a) and b) 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 the 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 qualified to apply for it; and
- c) Make arrangements for a copy of the statement mentioned in paragraph a) above to be sent to any person on request.

3. Appointment of Chief Executive

The Council will appoint the Chief Executive.

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 the Chief Officers (other than the Chief Executive) and Service Heads or equivalent is the responsibility of the Chief Executive or their nominee. Such appointments will be made with in consultation with the Leader.

5. Other Appointments

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

6. Dismissals and Disciplinary Action: Senior Officers

The dismissal of the Chief Executive, Monitoring Officer and Chief Finance Officer ("the Statutory Officers") shall be exercised by the Council itself and in accordance with the following provisions:

- a) The function of the dismissal of a Statutory Officer, where a Committee, Sub-Committee or Officer is discharging on behalf of the Council, the Council must approve that dismissal before notice of dismissal is given to that person.
- b) A Statutory Officer may be suspended whilst an investigation takes place into alleged misconduct. This suspension will be on full pay and last no longer than two months.

The Statutory Officer may not be dismissed by the Council unless the following procedure is complied with:

- a) A Panel will be appointed for the purposes of advising the Council on matters relating to the dismissal of Statutory 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.
- b) Independent Persons who have accepted an invitation to be appointed to the Panel will be appointed in accordance with the following priority order:
 - i. An Independent Person who has been appointed by the Council and who is a Local Government Elector;
 - ii. Any other Independent Person appointed by the Council;
 - iii. An Independent Person appointed by another authority or authorities.
- c) The Council is not required to appoint more than two Independent Persons, but may do so.
- d) The Council must appoint any Panel at least 20 working days before the relevant meeting.
- e) Before taking a vote at the relevant meeting on whether or not to approve a dismissal, the Council must take into account, in particular:
 - i. Any advice, views or recommendations of the Panel;
 - ii. The conclusions of any investigation into the proposed dismissal; and
 - iii. Any representations from the Statutory Officer.
- f) Any remuneration, allowance 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 the Service Head (or equivalent) except where such involvement is necessary for any investigation or inquiry into alleged misconduct.