

PROTOCOL FOR MEMBER / OFFICER WORKING ARRANGEMENTS

1. Introduction

1.1 This Protocol provides a general framework for the interaction between elected Members and officers of the Council, in order to seek to ensure that the Members and officers work together effectively and efficiently to conduct the business of the Authority.

1.2 In particular, this protocol aims to support the enhancement of local democracy by –

- facilitating the participation of Members and officers in the Council's policy development and decision making processes;
- assisting Members and those officers who support them in their role as representatives of the community within the Council and externally; and
- clarifying arrangements for the provision of the information and support for Members and their party groups.

1.3 This protocol is intended to assist Members and officers in maintaining the highest standards of integrity and propriety and ensuring that everything they do is seen by others to be done properly, fairly and where possible openly.

1.4 It is important therefore that any dealings with Members and officers should observe reasonable standards of mutual courtesy and respect, and that neither should seek to take unfair advantage of their position in any circumstances.

1.5 A Code of Conduct for all Members has been adopted by the Council which sets out the Conduct expected from Members.

1.6 This protocol should be read and applied in conjunction with that Code of Conduct. The principles and procedures set out in this protocol are already, to a large extent, established and form the basis of the Council's working arrangements. The purpose of this protocol is to provide guidance on Member/officer working arrangements particularly in the case of doubt or difficulty.

1.7 The Protocol for Member / Employee Working Arrangements is not a formal part of the Council's Constitution but a breach of this Protocol may still amount to a breach by Members of the Code of Conduct for Councillors and by Officers' of the terms and conditions of employment.

2. Roles of Members and Officers

2.1 The respective roles of Members and officers can be summarised as follows: Members and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and to the Authority, and to carry out the Authority's work under the direction and control of the Council, the Cabinet, and relevant Committees etc. Mutual respect between Members and officers is essential to good local government

2.2 Members

Members have four main areas of responsibility:

- a) determining the policy of the Authority and giving it political leadership;

- b) monitoring and reviewing the performance of the Authority in implementing that policy and delivering services;
- c) representing the Authority externally;
- d) acting as advocates on behalf of their constituents.

It is not the role of Members to involve themselves in the day-to-day management of the Authority's services.

2.3 Members of Cabinet, Chairmen and Vice-Chairmen

Members of Cabinet and Chairmen and Vice-Chairmen of Committees, Boards, Panels etc have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from, and more complex than those of Members without those responsibilities, and this is recognised in the expectations they are entitled to have. However, such Members must still respect the impartiality of officers, must not ask them to undertake work of a party political nature, or to do anything which would put them in difficulty in the event of a change in the political composition of the Authority.

2.4 Opposition Members

As individual Members, all Members have the same rights and obligations in their relationship with officers and should be treated equally. This principle is particularly important in the context of overview and scrutiny. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between officers, particularly those at a senior level in the organisation and the administration will differ from that with opposition groups.

2.5 Officers

The role of officers is to give advice and information to Members and to implement the policies determined by the Authority. In giving such advice to Members, and in preparing and presenting reports, it is the responsibility of the officer to express his/her own professional views and recommendations. Whilst an officer may report the views of individual Members on an issue, if the Member wishes to express a contrary view he/she should not seek to pressure the officer to make a recommendation contrary to the officer's professional view. Certain officers i.e. Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the Authority and to individual Members, and Members must respect these obligations, must not obstruct officers in the discharge of these responsibilities, and must not victimise officers for discharging these responsibilities.

3. Expectations

3.1 Members can expect from officers:

- a) A commitment to the Authority as a whole, and not to any political group;
- b) A working partnership;
- c) An understanding of and support for respective roles, workloads and pressures;
- d) Timely response to enquiries and complaints;
- e) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers;
- f) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
- g) Awareness of and sensitivity to the political environment;
- h) Respect, dignity and courtesy;
- i) Training and development in order to carry out their role effectively;

- j) Integrity, mutual support and appropriate confidentiality;
- k) Not to have personal issues raised with them by officers outside the agreed procedures;
- l) That employees will not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- m) That officers will at all times comply with the relevant professional standards, corporate policies and conditions of employment;
- n) Support for the role of Members as the local representatives of the Authority, within any scheme of support for Members which may be approved by the Authority.

3.2 Officers can expect from Members:

- a) A working partnership;
- b) An understanding of and support for respective roles, workloads and pressures;
- c) Political leadership and direction;
- d) Respect, dignity and courtesy;
- e) Integrity, mutual support and appropriate confidentiality;
- f) Not to be subject to bullying or to be put under undue pressure. Members should have regard to the seniority of officers in determining what are reasonable requests, having regard to the power relationship between Members and officers, and the potential vulnerability of officers, particularly at junior levels;
- g) That Members will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- h) That Members will give due consideration to advice received from officers;
- i) That Members will not criticise individual officers in public and will instead raise any concerns with the appropriate officer in the first instance;
- j) That Members will have due regard to advice received from the Head of Paid Service, Chief Financial Officer and Monitoring Officer when those officers are acting pursuant to their statutory duties;
- k) That Members will at all times comply with the relevant Code of Conduct.

3.3 Limitations on Behaviour

The distinct roles of Members and officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- a) Close personal relationships between Members and officers can confuse these separate roles and get in the way of the proper discharge of the Authority's functions, not least in creating the perception in others that a particular Member or officer may secure advantageous treatment;
- b) The need to maintain the separate roles means that there are limits to the matters on which they may seek the advice of officers, both in relation to personal matters and party political issues;
- c) Relationships with a particular individuals or party groups should not be such as to create public suspicion that an employee favours that Member or group above others. The issue of officer attendance and advice to political groups is specifically covered below.
- d) Members in their private capacity will sometimes need to use Council Services, for example a planning application for their property, or a licensing application for an organisation they are involved with. In order to ensure good future working relationships Members should follow with the principles of this Protocol in such interactions with officers.

4. Member/Officer Communication

4.1 Members should communicate with officers at the appropriate level. Routine service related enquiries should be initiated through normal departmental enquiry/contact points. If in doubt as to who to contact for such routine enquiries, Members should contact Democratic Services. Other matters will normally involve the appropriate Head of Service, Corporate Manager or other senior manager. Disagreement with regard to adopted policy should ordinarily be directed to the Portfolio Holder responsible.

4.2 In communicating with Members, officers should have regard to professional standards, Corporate Policies and conditions of employment, the requirements of this protocol and any instructions issued by their departmental management.

4.3 In order to keep Members informed of relevant information, it may sometimes be necessary for Members and officers to hold confidential briefings. Officers are expected to be clear as to what information is confidential, and why, and Members are expected to maintain that confidentiality.

5. Officer Advice to Party Groups

5.1 There is no statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the Council or the relevant Committees. Officers may be properly called upon to support and contribute to such deliberations by party groups.

5.2 The support provided by officers can take many forms ranging from a brief meeting with a Portfolio Holder, Chairman or spokesperson prior to a Council meeting, to a presentation to a full party group meeting. This support is available to all party groups.

5.3 Certain points must however be clearly understood by all those participating in this type of process, Members and officers alike. In particular –

a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or parts of meetings when matters of party business are to be discussed.

b) Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. It is essential that discussions are kept confidential and are not communicated (inside or outside the organisation), interpreted or acted upon as though they have that official status.

c) Similarly, where officers provide information and advice to a party group meeting in relation to a matter of Council business this cannot act as a substitute for providing all necessary information and advice to the Cabinet or relevant Committee when the matter in question is considered.

5.4 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Code of Conduct, in particular the provisions concerning the declaration of interest and confidentiality, and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a meeting of Members only.

5.5 Officers must respect the confidentiality of any party group discussions at which they

are present and should not, in particular, relay the content of any such discussion to another party group.

5.6 Any request for an officer to attend a meeting arranged by a party or party group, for the purpose of presenting information to the meeting (in relation to an issue or proposal affecting or involving the Council) must be made to the relevant Strategic Director, who will consult with the Chief Executive. Where it is agreed that an officer will attend for this purpose the same facility will be offered or made available to the other party groups. Any officer who so attends will do so in his/her official capacity, will be politically neutral, and attendance will not signify support for any particular political view, proposal or response.

5.7 Officer attendance at any public meeting will generally be avoided during the period between the announcement and conclusion of any local or parliamentary election affecting the area involved, and will only occur during such a period if representatives of all parties supporting candidates in the election have been invited to take part in the meeting.

5.8 At any public meeting organised by any party group, or by any individual Member (rather than by the Council) officers may attend only to provide information which is publicly available. No such officer attendance will take place during the 'pre-election' period referred to in paragraph 5.7.

5.9 Any particular difficulty or uncertainty concerning officer advice to party groups should be raised with the Strategic Director or Chief Executive who will where appropriate discuss with the relevant group leaders.

6. Officer/Member/Chairman Relationships

6.1 It is clearly important that there should be a close working relationship between the Leader of the Council, Portfolio Holder and Chairman of a Committee and the Strategic Director and other senior officers of any department which reports to that Member or Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other Members and other party groups or with any other individual or organisation.

6.2 The Leader of the Council, Portfolio Holder or Chairman will routinely be consulted as part of the process of drawing up an agenda for a forthcoming meeting. It must, however, be recognised that in some circumstances the proper conduct of business may require a particular matter to be included on the agenda and that the Leader/Member/Chairman is not entitled to require the removal of such an item from the agenda. Directors/Heads of Service will always be fully responsible for the content of any reports submitted in their name. Any issue concerning the inclusion of any item on an agenda and the submission of any particular report that cannot be agreed between the Leader, Portfolio Holder or Chairman and a Strategic Director should be referred to the Chief Executive as Head of Paid Service, the Corporate Legal Manager and/or the Strategic Director of Finance, Policy and Governance as Statutory Finance Officer.

6.3 In relation to any action under delegated powers, it is important to remember that the law allows for decisions relating to the discharge of any of the Council's functions which are not specifically reserved to the Council to be taken by the Cabinet. Normally,

wherever the authority to make a decision is delegated to an officer it is on the basis that the officer will exercise that authority in consultation with the Cabinet Member and/or other nominated Members.

6.4 It must be remembered that officers within a department are accountable to their Head of Service/Corporate Manager and Strategic Director and that whilst officers should also seek to assist a Cabinet Member or Chairman (or indeed any Member), they must not in doing so go beyond the bounds of whatever authority they have been given by their Head of Service/Corporate Manager or Strategic Director. It should also be noted that the Chief Executive has a statutory responsibility as Head of Paid Service for ensuring the proper organisation and management of the Council's staff, and has therefore an overall responsibility for the direction and management of all officers.

7. Correspondence

7.1 Members and officers are reminded that all written correspondence (including letters and emails) between them and with members of the public may be subject to information requests under the Freedom of Information Act, Environmental Information Regulations or Data Protection Act.

7.2 Correspondence between individual Members and an officer should not normally be copied to any other Member except where necessary for the proper conduct of business. When using email 'blind' copies of such correspondence should not be circulated.

7.3 Official letters on behalf of the Council should normally be sent out in the name of the appropriate officer rather than in the name of a Member. It may be appropriate in certain exceptional circumstances, for example representations to a Government Minister or correspondence with a Leader or another local authority, for a letter to be issued in the name of the Leader of the Council. Letters or e-mails which for example create obligations, confirm or deny the acceptance of any liability, or give instructions on behalf of the Council, should always be sent out by the appropriate Strategic Director, Head of Service/Corporate Manager or other senior officer.

8. Publicity and the Media

8.1 Contact with the media on issues related to the Council or to Council business is handled through, or with advice/support from, the Communications Unit.

8.2 Any Member who approaches the media on any item involving or affecting the Council without first approaching or consulting the Council (through the Communications Unit) will be responsible for such action. Any Member who does so should make it clear that he/she is speaking on his/her own behalf and not representing or speaking for the Council.

8.3 Members and officers should be mindful of the prohibition on the publication by the Council of any information intending to promote or canvass support for any political party or candidate for elections. In case of doubt, advice should first be obtained from the Corporate Legal Manager, who will have regard to Code of Practice on Local Government Communications.

9. Personal Relationships

9.1 No Member or officer should allow any personal connection or relationship with any other Member or officer to affect the performance of his or her official responsibilities or

the taking of any action or decision by or on behalf of the Council. This includes, for example, any family relationship, membership of the same household or any business connection. Members and officers should always consider how such a relationship or connection would be likely to be regarded by anyone outside the Council, or by any other Member or officer, and avoid creating any impression of bias or unfairness.

9.2 An officer who is personally connected or related to any Member should notify to his or her Strategic Director in writing using the Register of Interests form (G: Drive). (Intranet? Web link required)

9.3 Members should take into account any personal relationship or connection with any other Member or officer, in considering the need to register or declare a personal or personal and prejudicial interest whenever appropriate.

10. Involvement of Members

10.1 Whenever a public meeting is organised by the Council to consider a local issue affecting a particular area, all the Members of the relevant Area Committee or (if only affecting a particular Ward or Wards), those Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, wherever the Council undertakes any form of consultative exercise on a local issue, in line with the Consultation Strategy, the Area Committee/Ward Members should be notified at the outset of the exercise.

10.2 The relevant senior officer will keep Members informed about significant issues in their Ward or elsewhere and effecting the Council generally, including in respect of consultation with parish councils and community groups. Such updates will usually be via MIS and examples include items on national policy, County issues, technical workshops etc. These will be issues of importance over and above the routine matters and which do not contravene the law relating to confidential information.

10.3 When a Member raises a Ward issue with an officer, they will be kept informed of progress if they wish to be.

11. Further Guidance

11.1 Any Member of the Council who needs further guidance on any of the matters referred to in the Code or on any similar or related issue is advised to contact the Corporate Legal Manager. Any officer needing such guidance should refer initially to their manager who will consult senior management and obtain advice as necessary.

**Protocol for Member / Employee Working Arrangements
Additional Information & Guidance which should be read in conjunction with the
main document.**

The Protocol states at para 4.2 that: *“Members should communicate with employees at the appropriate level. Routine service related enquiries should be initiated through normal departmental enquiry / contact points. Other matters will normally involve the appropriate Head of Service, Strategic Director, Corporate Manager or other Senior Manager.”*

This note provides additional information and guidance to Members about what is the *“appropriate level”* in different circumstances. This additional guidance exists so that:

- senior managers can ensure that Members are provided with correct, comprehensive information and advice;
- employees are guided and supported through the appropriate management channels;
- the Council can be confident that it is properly discharging its health and safety responsibilities as an employer.

Contact and communication includes telephone, e-mail, letters and in person. Members should always identify themselves as being Members when contacting employees. The advent of flexible working arrangements means this is especially important as contact will often be via email or telephone. Senior officers may use briefings, e-mail or dispatch to notify Members of Ward issues.

1. ‘First Time’ Service Requests or Reports of a Service Failure

When a Member is assisting a constituent or reporting matters for the first time, for example dumped rubbish, missed bins, public toilets in need of cleaning, graffiti etc the point of contact set out in the A-Z of Council Services should be used - http://www.north-herts.gov.uk/index/council_and_democracy/a-zservices.htm.

2. Planning Applications

When dealing with specific applications as Ward issues Members should contact the Development Control case officer at the contact number set out on material produced by the Planning Service.

3. Electoral Registration

For electoral registration issues, including postal voting, contact should be made with the Elections Team.

4. Requests for Work to be Undertaken

When a Member wants an employee to undertake new or additional work (other than routine requests described above) contact should be made with the Strategic Director, Head of Service or Corporate Manager. This is important as all employees have clear work programmes and understanding as to what they need to achieve. Being asked directly by Members to take on additional work could undermine an employee’s performance and lead them into difficulties, as well as creating stress in juggling competing workloads and priorities.

5. Discussion of the Development or Application of Policy

When a Member wishes to discuss policy, contact should be made with the Strategic Director or Head of Service or Corporate Manager. Members must have the fullest possible information about a policy area. Although many employees are highly knowledgeable about their subject matter, they cannot be expected to know all of the wider contexts such as finance, external relations, impacts on other service areas etc.

6. Involvement of Members

Senior officers may use briefings, telephone, e-mail or dispatch to notify Members of Ward issues. In making an assessment of what are the significant issues to advise Ward Members of, the senior officer for the relevant area should err on the side of caution and notify rather than not. This should happen as and when the issues emerge. The relevant senior officer will keep Members informed about significant issues in their Ward or elsewhere and effecting the Council generally, including in respect of consultation with parish councils and community groups. Direct contact (ie email) should be the preferred method of contact for Ward issues, with MIS or Champion News being used for more general matters.

7. Complaints

If a Member needs to make a complaint about the conduct of a Council employee or a contractor to the Council, or to complain that a service has not been delivered in accordance with service standards or established expectations, contact should be made with the Strategic Director, Head of Service or Corporate Manager. The matter will be recorded in the 3Cs database and handled in accordance with that procedure.

Good management and discipline are important and it is essential for Strategic Directors, Heads of Service or Corporate Manager to be made aware of Members' perceptions and experiences so that proper steps can be taken to resolve difficulties and support employees.

Although it is most unlikely that this will ever occur, for the sake of completeness and absoluteness and absolute clarity, a Member should never, in any circumstance, seek to intervene in an employee's or contractor's work or to give instruction to an employee or contractor. If a Member has cause for concern about the way that an employee or contractor is undertaking work, the Strategic Director ,Head of Service or Corporate Manager should be contacted.

8. Response Times

When a Member makes contact with any officer, a response will be made as quickly as possible in line with the Council's published customer care standards. Officers will:

- Answer telephone calls within four rings;
- Reply to e-mails within two working days, and letters within four or;
- Explain why a full response cannot be given within this time;
- Aim to supply a substantive response within 10 working days.

Where necessary a Strategic Director ,Head of Service or Corporate Manager will identify one officer to take responsibility for resolving a cross-service or cross-agency issue raised by a Member, and notify the Member who this is and their contact details, in line with the Customer Care standards.