

SECTION 18

PROTOCOL FOR MEMBER / OFFICER WORKING ARRANGEMENTS

(Reviewed and approved by Council 11 April 2017)

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 The Council has adopted a Councillor Code of Conduct (section 17 of the Constitution) which sets out the Conduct expected from Members. Officers are also bound to follow the Council's Employee Code of Conduct and may, in addition be subject to their own professional codes of conduct.

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 Failure of a Member to follow the Protocol for Member / Officer Working Arrangements may amount to a breach of the Councillor Code of Conduct and by an Officer of the Employee Code of Conduct and therefore their 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. It is not the role of Members to determine the day-to-day management of the Authority's services. 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.

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 fairly. 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

There might be occasions when Members and Officers disagree about certain issues, however on these occasions it is expected that the standards of behaviour set out in the Protocol will still be followed.

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 be subject to bullying or to be put under undue pressure.
- l) Not to have personal issues raised with them by officers outside the agreed procedures;
- m) That employees will not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- n) That officers will at all times comply with the relevant professional standards, corporate policies and conditions of employment;
- o) 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 or complaints with the appropriate officer (dependent on the seniority of the officer concerned – directly or their line manager) 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 will sometimes need to use Council Services in their private capacity, 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 the principles of this Protocol in such interactions with officers and in any event any requirements in the Councillors' Code of Conduct (and where applicable the Planning Code of Good Practice). Members are reminded that the Code of Conduct applies to any formal or informal meeting with officers and Members where authority business such as this is discussed. Members should therefore use a third party to liaise and correspond on their behalf.

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. Contact and communication includes telephone, e-mail, letters and in person. Members should always identify themselves as being a Member when contacting officers. Flexible working arrangements mean that this will be 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. The relevant Senior officer will keep Members informed of general developments affecting the Council and/or the District via MIS. If a Member wants an officer to undertake new or additional work (other than routine requests described below) contact should be made in the first instance with the appropriate Senior officer for the service concerned. This will be considered in the context of the Council's priorities, approved policies and resources available.
- 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.
- 4.4 When a Member wishes to discuss policy, contact should be made with the relevant Executive Member. Operational queries should be raised with the Senior officer for the Service concerned (Head of Service, Corporate Manager or other Senior manager).

4.5 Members will experience a number of standardised requests for assistance from constituents and should approach such matters as per below. Officer response times will be as per the Council's published customer care standards:

4.5.1. 'First Time' Service Requests or Reports of a service failure: if reporting matters for the first time, then this can be reported on line via the Council's website: <https://www.north-herts.gov.uk/>

4.5.2 When dealing with specific planning applications Members should contact the Development Control case officer at the contact number set out on material produced by the Planning Service. This does not include a Member's own application, as this should be handled through a third party on a Member's behalf.

4.5.3 Electoral registration issues for residents, including postal votes are handled by the Elections Team. Residents can register on line via <https://www.north-herts.gov.uk/home/elections-and-voting/register-vote>

4.6 If in doubt as to who to contact for such routine enquiries, Members should contact Democratic Services.

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. The advice provided must be consistent with the principle at paragraph 3.1(e) above.

5.2 The support provided by officers can take many forms ranging from a brief meeting with an Executive Member, 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) The support provided by an 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 senior officer for the service concerned, 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 (including Police and Crime Commissioner elections) 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 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, Executive Member and Chairman of a Committee and the 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, Executive Member 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. The Leader/Member/Chairman is not entitled to require the removal of such an item from the agenda, unless agreed by the Leader (unless s/he is the requester³⁹) and Chief Executive Officer⁴⁰. The relevant officer will always be fully responsible for the content of any reports submitted in their name. Any

³⁹ If the Leader is the requester, then this is to be agreed with the Chief Executive.

⁴⁰ This does not apply to statutory officer reports – under s114 Local Government Finance Act 1988 & s5 Local Government and Housing Act 1989

issue concerning the inclusion of any item on an agenda and the submission of any particular report that cannot be agreed between the Leader, Executive Member or Chairman and the relevant senior officer should be referred to the Chief Executive as Head of Paid Service, the Monitoring Officer and/or the Chief 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 or officers. 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 and a record of that decision (as per the Guidance for Decisions Made Under Delegated Authority) completed and published.
- 6.4 It must be remembered that officers within a department are accountable to their Service 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 Service Director or other senior officer. 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, emails and other forms of electronic communication) 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 (and other forms of electronic communication) 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 Service Director 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 Monitoring Officer, who will have regard to the Code of recommended practice on local authority publicity.

8.4 In all other respects such communications should be in accordance with the Council's Media Relations protocol.⁴¹

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 has a Personal Interest that should be notified to his or her Appropriate Officer in writing using the (Personal) Interests Register Form (on the intranet: <http://intranet.north-herts.gov.uk/home/human-resources/hr-policies/conflicts-interest>).

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 Disclosable Pecuniary Interest or Declarable 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 affecting 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.

⁴¹ Available on the internet: <https://www.north-herts.gov.uk/home/customer-services/publications-and-consultations/media-relations-protocol>

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 Monitoring Officer. Any officer needing such guidance should refer initially to their manager who will consult senior management and obtain advice as necessary.