



Hertfordshire
COUNTY COUNCIL

**MEMBERS INFORMATION
REVISED MAY 2002**

SECTION 3.5

PROTOCOL FOR RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS

1. Introduction

This protocol seeks to reflect the principles underlying the *Hertfordshire County Council Code of Conduct for Councillors* and should be read in association with the Code. The objective of the Code is to enhance and maintain the integrity of local government, which demands very high standards of personal conduct.

The protocol is divided into the following sections:-

2. Personal Relationships
3. Support to Members
4. Officers and the Groups
5. Member access to information
6. Correspondence between Members and Officers

2. Personal Relationships

2.1 This Protocol endorses the statements in:-

- (a) *The Code of Conduct for Councillors which states that a member must:-*

"promote equality by not discriminating unlawfully against any person;

treat others with respect; and

not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the Council. "

and (b), the Code of Conduct for Employees, which states that:-

“Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.”

- 2.2 The interpretation of “close personal familiarity” is a matter of judgement for both members and officers. The test should be, whether a disinterested third party might reasonably regard the relationship as so close and personal as to be likely to affect the ability of the member or officer to carry out their respective roles properly or effectively.
- 2.3 Provided these guidelines are observed there is no reason why there should not be an informal atmosphere between members and officers outside formal meetings and events.
- 2.4 It is clearly important that there should be a close working relationship between an Executive Member, or the Chairman and Spokesmen of a *Scrutiny* Committee or other member body and the relevant Chief Officer and other senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an officer’s ability to deal impartially with other members and other political groups.
- 2.5 A member may be asked for advice and support by an employee who is one of their constituents. Employees are entitled to seek such assistance in the same way as any other member of the public. The member must, however, be careful not to prejudice the County Council in any way.

This will be particularly relevant if there is any question of disciplinary procedures in respect of the employee. A member approached for help in such circumstances should first seek advice from the County Secretary.

3. Support to Members

A full list of services available to members is contained in Section 1 of the Members Information Folder.

The purpose of the member services is to enable members better to perform their various roles as County Councillors. They are available for purposes connected with Council business, including the business of County Council political groups, but not for personal or business purposes, nor for political purposes unconnected with the County Council.

All members should feel free to express their needs to officers and particularly to the Assistant County Secretary (Ron Coxall telephone 01992 555540). Where, however, there are budgetary constraints or differences of view, the Leader of the Council *and Group Leaders* (or members nominated by them) will act to mediate and offer definitive guidance on behalf of members.

4. Officers and the Groups

- 4.1 All Officers are servants of the Council as a whole. However, there is now statutory recognition for political 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 relevant Council decision

making body. Officers may properly be called upon to support and contribute to such deliberations.

- 4.2 The Chief Executive, Chief Officers and other officers (with the agreement of their Chief Officer or of the Chief Executive) are available to attend and give to groups relevant information or advice on possible courses of action. This may apply to the meeting of a whole group; meeting of part of a group, or to individuals representing the group. Such briefings will be treated with whatever level of confidentiality the group requires.

Officers are not required to inform other groups of such attendance, but will do so, if requested, whilst still keeping confidential the nature and detail of the advice given.

- 4.3 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.
- 4.4 Group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decision on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
- 4.5 Similarly where officers provide information and advice to a 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 relevant member body when the matter in question is considered.
- 4.6 If information or advice prepared by officers on their own initiative would assist all groups in relation to policy formulation e.g. background to the budget, then the Officers may indicate to all groups that they would be willing to provide that information, or attend a meeting to provide such advice.
- 4.7 Groups are free to issue their own Group Press Releases. These should be designed to avoid any possibility of confusion with county Council Press Releases. Groups may use Council materials, typing printing and distribution channels (including fax) but will be recharged for this.
- 4.8 In all dealings with members, in particular when giving advice to groups, officers must demonstrate political impartiality and must not suppress their professional advice in the face of political views.
- 4.9 Officers may accompany members at meetings with ministers, MPs etc. to discuss Council business.
- 4.10 Special care needs to be exercised whenever officers are involved in providing information and advice to a group meeting which includes persons who are not members of the Council or of a *Scrutiny* Committee. Such persons will not be bound by the Code of Conduct (in particular, the provisions concerning the declaration of interests 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 ‘members only’ meeting.

However, political groups will be expected to apply the same standards and provisions in all their meetings and to require all people attending their meetings to abide by the provisions concerning declarations of interest.

- 4.11 In some situations a Chief Officer could be under a duty to submit a report on a particular matter to members. A Chief Officer will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between *an Executive Member*, Chairman or Spokesman and a Chief Officer in this area should be referred to the Chief Executive.
- 4.12 Finally, it must be remembered that officers are accountable to their Chief Officer and that whilst officers should always seek to assist a member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Chief Officer.

5. Member access to information

- 5.1 It is necessary for the proper running of the Council that members should be fully informed on items on which they are required to make decisions or which affect their divisions. It is the duty of each Chief Officer to ensure that local members are kept informed.
- 5.2 Chief Officers are available to give information and advice to all members, individually and in groups (political or otherwise), whether on agenda items or on any other item of Council business. Oral information and advice is often best. Written material can, of course, be supplied but may take longer, will consume more staff time and may miss the point of the enquiry.
- 5.3 In principle, information is the property of the whole Council, and that provided to one member may be provided to another

However, when a member asks for information or advice the reply must not be copied to or subsequently made available to other members without the permission of the requesting member. Where information or advice is given in writing to a number of members the document should make clear who has received it. In other words a system of “silent copies” should not be used.

- 5.4 Members are free to ask an officer for information, explanation and advice as they may need to help them discharge their role. Such approaches should normally be made to the relevant Chief Officer or another senior officer.
- 5.5 The legal rights of members to inspect Council documents can be summarised as follows:-
- A member has a right to inspect any documents if they have “a need to know” i.e. if it is necessary to fulfil their duties as a Councillor.
 - *Additionally, a member has a right of access to any document which:-*

- (a) *is in the possession, or under the control, of the executive of a local authority; and*
 - (b) *contains material relating to any business to be transacted at a public meeting.*
- *Any document which:-*
 - (a) *is in the possession, or under the control, of the executive of a local authority; and*
 - (b) *contains material relating to:-*
 - (i) *any business transacted at a private meeting;*
 - (ii) *any decision made by an individual member in accordance with executive arrangements; or*
 - (iii) *any key decisions made by an officer in accordance with executive arrangements,*

shall be available for inspection by any member when the meeting concludes or, where a key decision is made by an officer, immediately after the decision has been made.

(The rights to access documents mentioned in the preceding two paragraphs does not apply where it would involve the disclosure of exempt information under Part I of Schedule 12A to the Local Government Act 1972)

- A member will be deemed to have a “need to know” if they are a member of the committee which has responsibilities in relation to the service to which the document relates; or if they are the local member.
- Otherwise, in the case of documents which are confidential because they deal with personal circumstances or commercially sensitive information, the member will have to justify why they wish to see a particular document.

A dispute about whether a member has a “need to know” in respect of a particular document will be referred initially to the appropriate Chief Officer. If the dispute cannot be resolved by the Chief Officer it will be referred to the Chief Executive for decision. The County Secretary will advise at all stages.

These rules apply to documents in the possession of the Council and not, for example, documents in the possession of a particular political group.

- 5.6 Finally, any Council information provided to a member must only be used by the member for the purpose for which it was provided, i.e. in connection with the proper performance of the member’s duties as a member of the Council.

6. Official Correspondence

Official letters which convey the views of the Council should normally be sent out over the name of the appropriate officer.

May 2002