

Officer/Councillor Protocol

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1 Purpose

- 1.1. The purpose of this protocol is to guide Harlow Council Councillors and Officers in their relations with each other. It has been produced to promote the highest standards in public life and harmonious working relationships. Whilst there are distinctive roles and responsibilities exercised respectively by Councillors and Officers, it is important to recognise that both serve the one Council in partnership. It is essential for a positive, trusting and respectful working relationship to exist between them if the Council's ambitions for the local community are to be fulfilled.
- 1.2. The relationships between Officers and Councillors are inevitably complex. This protocol has therefore been developed to provide more clarity for them. Consideration is also given in this protocol to the relationship between Councillors. Councillors and Officers should at all times observe this protocol.
- 1.3. The protocol seeks to:
 - a) promote trust, openness, fairness and honesty by establishing ground rules
 - b) define roles to clarify who has what responsibilities and avoid misunderstanding and conflict
 - c) secure compliance with the law, codes of conduct and the Council's own practices
- 1.4. This protocol seeks to reflect the principles underlying the respective codes of conduct contained within the Council's constitution applying to Councillors and Officers. The objective of the protocol is to enhance and maintain the integrity (real and perceived) of local government.
- 1.5. This document does not seek to be exhaustive.

2 Definitions Used in this Statement

- 2.1. "The Administration" is the ruling political group(s) responsible for the political management of the Council.
- 2.2. "The Leader of the Council" and Deputy Leader are appointed by the Council at its annual meeting and are the Council's principal political spokespersons. They are also responsible for giving overall political guidance to the Chief Executive. The Chief Executive will then give guidance to the Senior Management Board (SMB).
- 2.3. A "Political Group" shall be defined as two or more Councillors who inform the Chief Executive that they wish to be treated as a separate group for representational purposes.

- 2.4. A "Group Leader" is the Councillor nominated by a political group to lead the group and to be its principal spokesperson on the Council.
- 2.5. The "Leader of the Opposition" will normally be the Leader of the largest group which is not part of the Administration.
- 2.6. The "SMB" is the Council's Senior Management Board, comprising the Chief Executive and Directors.
- 2.7. "Proper Officer" means the Officer responsible for discharging the relevant function on behalf of the Council.
- 2.8. Unless the context indicates otherwise, the terms Councillor and Councillors include co-optees.
- 2.9. The terms Officers and staff mean all persons employed by the Council.

3 Values Statement

- 3.1. It is essential to define the values within which Councillors and Officers work.
- 3.2. For everyone, the following values should be upheld:
 - a) the basis of all working is honesty, openness, trust and respect for others
 - b) individually and collectively we uphold the law and act with personal integrity
 - c) individually and collectively we work for the benefit of all people in Harlow and exercise good governance
 - d) Officers are treated fairly and are supported in their roles.
- 3.3. In the relationships between Councillors and Officers, the following values should be upheld:
 - a) there is mutual respect for the distinctive roles of Officers and Councillors
 - b) Officers serve the whole Council and are politically impartial
 - c) Councillors respect Officers' impartiality
 - d) Officers assist all Councillors in their various roles and groups
 - e) Councillors and Officers act in a co-operative and constructive manner

- f) Officers diligently implement the lawful wishes of the Council
 - g) Councillors value Officers' professionalism
 - h) Councillors respect Officers' line management responsibilities
 - i) Councillors recognise that actions must accord with approved policies and procedures.
- 3.4. In the relationships between Councillors, the following values should be upheld:
- a) Councillors work together wherever possible for the good of Harlow and place the needs of the local community above all else
 - b) Councillors respect the rights of fellow Councillors of all political views and are courteous in their dealings with each other.
- 3.5. These values need to be lived and not just written down. Positive steps need to be taken to ensure that the culture of the Council reflects these aspirations. The Monitoring Officer, in consultation with SMB and the Leader of the Council, will from time to time as appropriate report to the Audit and Standards Committee an assessment of how well the stated values are being implemented. The report will also suggest recommendations for appropriate action to be taken to address any failings.

4 Principles underlying effective relationships

- 4.1. The protocol has been approved by Full Council and will be monitored by the Audit and Standards Committee.
- 4.2. Councillors and Officers must show respect in all their dealings by observing reasonable standards of courtesy and by not seeking to take unfair advantage by virtue of their position.
- 4.3. The codes of conduct for Councillors and Officers represent best practice. The Councillor Code of Conduct is based on the Nolan principles. The Nolan Principles are set out in Appendix 1 to the Councillor's Code of Conduct and on the Government's website <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>
- 4.4. Officers are bound by the Officers' Code of Conduct (set out in Part 5) and, in some cases, by the codes of their professional associations.

5 Role of Councillors and Officers

- 5.1. Both Councillors and Officers are servants of the public and they are indispensable to one another. However, their responsibilities are distinct. Councillors 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 Councillors and the Council and to carry out the Council's work under the direction and control of the Council, its Committees and Sub Committees.
- 5.2. Councillors have a number of roles and need to be alert to the potential for conflicts of interest that may arise between the roles. Where such conflicts are likely, Councillors may wish to seek the advice of: senior colleagues, Directors/SMB or the Monitoring Officer.
- 5.3. As politicians, Councillors may express the values and aspirations of the party political groups to which they belong. They must also recognise that in their role as Councillors they have a duty to always act in the public interest.
- 5.4. Councillors are not authorised to instruct Officers other than:
 - a) through the formal decision-making process
 - b) to request the provision of consumable resources provided by the Council for Councillors' use
 - c) where staff have been specifically allocated to give support to a Councillor or group of Councillors.
- 5.5. Councillors are not authorised to initiate or certify financial transactions or to enter into a contract on behalf of the Council.
- 5.6. Councillors must avoid taking actions that are unlawful, financially improper or likely to amount to mal-administration. Councillors have an obligation under their Code of Conduct to have regard to any advice provided by the Monitoring Officer or the designated Finance Officer.
- 5.7. Councillors must not insist that any Officer take any action, or not take action, that the Officer considers unlawful or illegal, is in direct contradiction of any code or guidance, contrary to the Council's budget or policy framework or which would be likely to amount to mal-administration. Additionally, Councillors may request, but must not insist, that an Officer change their professional advice.
- 5.8. Councillors have a duty under their code of conduct:
 - a) to promote equality by not discriminating unlawfully against any person

- b) to treat others with respect
 - c) to promote the highest standards of conduct and ethics.
- 5.9. Under the code, a Councillor must not when acting as a Councillor or in any other capacity:
- a) bring the Council or their position as a Councillor into disrepute
 - b) use their position as a Councillor improperly to gain an advantage or disadvantage for themselves or any other person.
- 5.10. Officers are responsible for managing, providing and co-ordinating the services for which the Council has given them responsibility. Officers are accountable for the efficiency and effectiveness of those services and for the proper practice in discharging their responsibilities.
- 5.11. Officers' primary responsibility is to serve the whole Council. They have a responsibility to deal with and advise all Councillors in a fair and impartial manner. They are also responsible for giving advice to Councillors to enable them to fulfil their roles. When doing so, Officers must take into account all available relevant factors.
- 5.12. Officers have a duty to implement the decisions of the Council, Committees and Sub Committees which have been properly approved in accordance with the requirements of the law and the Council's Constitution. The decisions will also be duly recorded in the minutes.
- 5.13. Officers contribute to policy proposals and implement the policies set by Councillors. They will ask for or receive guidance (political or otherwise) if they are unclear about any aspect of those policies.
- 5.14. Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views. They are also required to abide by the Officer's Code of Conduct.
- 5.15. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- 5.16. Officers must be alert to issues that are, or are likely to be, contentious or politically sensitive and be aware of the implications for Councillors, the media or other sections of the public.
- 5.17. Officers have the right not to support Councillors in any role other than that of Councillor and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on Officers' involvement in political activities.

- 5.18. Officers must not set policy other than those for the efficient running of office procedures and processes and those that have been delegated to them under the Council's Constitution.

6 The relationship between Councillors and Officers

- 6.1. The conduct of Councillors and Officers should be such as to instil mutual confidence and trust.
- 6.2. Informal and collaborative two-way contact between Councillors and Officers should be encouraged. However, personal familiarity can damage the relationship.
- 6.3. Councillors and Officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 6.4. Councillors and Officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict of interest could be perceived. Specifically, a Councillor should not sit on a body or participate in any decision that directly affects the Officer on a personal basis.
- 6.5. Officers work to the instructions of their line managers, not individual Councillors. Whilst Officers will always seek to assist a Councillor, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, Councillors should normally direct their requests and concerns at the level of service manager or above, at least in the first instance. Councillors should not ask any Officer to breach Council policy or procedures.
- 6.6. Officers will respond to Councillor written queries (e-mail or correspondence) within five working days. The response will take the form of, either a substantive reply to the query or an acknowledgement setting out a clear timescale within which a substantive reply will be sent. In the event that this timescale cannot subsequently be met, the Officer will contact the Councillor with an explanation and a revised timescale. Councillors will also endeavour to give equivalent timely responses to enquiries from Officers.
- 6.7. Officers should not have unreasonable requests placed on them. Their work priorities are set and managed by relevant managers. Councillors should have regard to Officers existing work priorities when making requests of them.
- 6.8. An Officer will not discuss with a Councillor personal work related matters concerning themselves or another individual employee. This does not

prevent an Officer raising, on a personal basis and in their own time, a matter with their Ward Councillor.

- 6.9. Councillors and Officers should respect each other's non-working time.
- 6.10. Councillors must recognise the right of Officers to suggest that their line managers, the Council or a Council Committee or Sub Committee need to authorise additional work requested by individual Councillors.
- 6.11. Councillors and Officers must not disclose information given to them in confidence without the consent of a person authorised to give it, unless required by law to do so.
- 6.12. When requested to do so, Officers will keep confidential from other Councillors advice requested by a Councillor.
- 6.13. Councillors and Officers must not prevent another person from gaining access to information to which that person is entitled by law.

7 Correspondence

- 7.1. Any correspondence between an individual Councillor and an Officer should not normally be copied to another Councillor. Where exceptionally it is necessary to copy correspondence to another Councillor, this should be made clear to the original Councillor.
- 7.2. Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer and not a specific Councillor. However, the Leader and Deputy Leader of the Council can send correspondence explaining the policy reasons for particular decisions taken by the Council or its Committees.
- 7.3. When writing in an individual capacity as a Ward Councillor, a Councillor should make clear that fact.

8 The Council as an Employer

- 8.1. Officers are employed by the Council as a whole.
- 8.2. Councillors will occasionally be involved in:
 - a) the appointment of specified senior posts
 - b) determining human resources policies and conditions of employment
 - c) hearing and determining appeals
 - d) appraising the Chief Executive.
- 8.3. If participating in the appointment of Officers, Councillors should:

- a) remember that the sole criterion is merit
- b) never canvass support for a particular candidate
- c) not take part where one of the candidates is a close friend or relative
- d) not be influenced by personal preferences
- e) not favour a candidate by giving them information not available to the other candidates.

8.4. A Councillor should not sit on an appeal hearing if the appellant is a friend or relative.

9 Relationship between Chair of the Council and Officers

9.1. Officers will respect the position of Chair and provide appropriate support.

10 Relationship between Leader of the Council and Officers

10.1. Whilst Officers serve the whole Council and are politically impartial, they do work closely with senior members of the Administration. The senior members of the Administration represent the Council in a corporate capacity and are ultimately accountable in public for the policies and performance of the Council. Their offices should therefore be respected. Officers will proactively communicate and consult with the Leader, Chair and Vice Chair of Committees on appropriate material or potentially sensitive matters arising. Officers will also ensure that all Committee, Sub Committee and Working Group reports are shared in draft with the respective Chair and/or Vice Chair prior to their distribution to the wider Council membership. Briefing meetings will also be organised to discuss such reports as set out in paragraphs 11.3 and 11.4.

10.2. Subject to consultation with the Chief Executive, middle managers and above (including the Monitoring Officer and the Chief Finance Officer) have the right to present reports and give advice to Committees and Sub Committees.

10.3. Members of a Committee or Sub Committee shall take decisions within the remit of that Committee or Sub Committee and will not otherwise instruct Officers to act.

10.4. At some Committee or Sub Committee meetings, a resolution may be passed which authorises a named Officer to take action between meetings in consultation with the Leader, Chair and Vice-Chair. In these circumstances it is the Officer, not the Chair, who takes the decision and action and is responsible for it. No pressure should be applied on such an Officer when making such a decision.

11 Briefing on Council or Committee Business

- 11.1. Briefings may be arranged for the Cabinet or the Chair and Vice-Chair of the Council and Committees to consider the business, as set out in the agenda, which will be transacted at each formally arranged meeting.
- 11.2. Before an agenda is published the Cabinet or the Committee the Chair and Vice Chair will be invited to a pre-agenda meeting where items for the forthcoming meeting are considered.
- 11.3. Following the publication of a formal Council, Cabinet, Committee or Sub Committee agenda, a pre-meeting briefing will be arranged for the Cabinet, Chair and Vice Chair.
- 11.4. In respect of the Audit and Standards Committee, briefings for the respective Councillors will be given in advance of the meeting. In most cases this will be immediately prior to the formal convening of the relevant meeting.

12 Complaints or concern about Officers

- 12.1. Councillors have the right to comment on reports or the actions taken by Officers but they should always:
 - a) maintain mutual trust, respect and confidence
 - b) avoid personal attacks on or abuse of Officers
 - c) ensure that criticism is constructive
 - d) take up a concern with the Officer privately, where possible.
- 12.2. All reports to Council, Cabinet, Committees or Sub Committees will include the name, telephone number and e-mail address of the author(s) so that a Councillor may discuss any concerns privately with the Officer(s) concerned.
- 12.3. Councillors should not raise matters relating to the conduct or capability of an Officer at Council meetings or in any public forum. This could be damaging both to effective working relationships and to the image of the Council. An Officer has no means of responding to such criticisms in public and a Councillor should raise their concern in private, with as much notice as is reasonably possible, before the meeting or public forum takes place.
- 12.4. If a Councillor feels they have not been treated with the proper respect, courtesy or has concerns about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, they should raise the matter in writing with the appropriate Director. . The Director should consider arranging a facilitated meeting between the

Officer and Councillor concerned (subject to both parties consent). The Director will look into the facts and report back to the Councillor. The Director will decide whether or not formal disciplinary action should be taken against the Officer concerned. If formal disciplinary action is necessary, and the Councillor who has complained is a key witness, they should indicate at the outset whether they would be prepared to give evidence at a formal disciplinary hearing if necessary.

- 12.5. If the Councillor continues to feel concern following the response from the service manager, they may report it to the Chief Executive whose determination in respect of any Officer below Chief Officers will be final. A complaint about a Director should be raised with the Chief Executive. A complaint about the Chief Executive should be raised with the Leader and/or the statutory Officers.

13 Complaints or concerns about Councillors

- 13.1. An Officer who has a complaint about the conduct of a Councillor should raise the matter in private with the Chief Executive. The Officer may also approach their trade union to represent them.
- 13.2. The Chief Executive will seek to resolve the matter informally through:
 - a) discussion with the Councillor concerned and/or
 - b) the relevant Leader of the political party and/or
 - c) a facilitated meeting between the Officer and Councillor concerned (subject to both parties consent).
- 13.3. The Officer may at any time refer the matter to the Monitoring Officer.

14 Councillors in their ward roles and Officers

- 14.1. The Directors should keep local Councillors informed of significant or sensitive issues affecting their Ward.
- 14.2. When exercising delegated powers Officers must have regard to the desirability of consulting all respective Ward Councillors when a matter concerning a particular ward is being determined.
- 14.3. Whenever a public meeting is organised by the Council to consider a local issue, all the Councillors representing the Wards affected should be invited to attend the meeting as a matter of course.
- 14.4. If a local Councillor intends to arrange a public meeting on a matter concerning some aspect of the Council's work, they should inform the relevant Officer. Provided the meeting has not been arranged on a party political basis nor takes place in a statutory election period then:

- a) an Officer may attend but is not obliged to do so
 - b) the meeting may be held in Council-owned premises.
- 14.5. Officers must never be asked to attend political party meetings.
- 14.6. It is acknowledged that some Council staff may receive and handle messages for Councillors on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.
- 14.7. Councillors need to be mindful of their competing roles, given that they are required to act both for the Council and their constituents. They should therefore be conscious of the possible conflicts of interest that can arise and the pressures that this can generate. In seeking to deal with constituents' queries or concerns, Councillors should not seek to jump the queue but should respect the Council's procedures. See paragraphs 9.1 and 10.1 in relation to the required levels of Officer support.

15 Briefing/supporting party groups

- 15.1. The Chief Executive will arrange regular meetings with the political Group Leaders or their representatives, as appropriate. This may include a regular meeting of all Group Leaders.
- 15.2. In addition, any party group may request a private and confidential briefing, where appropriate, going beyond the provision of written information on matters of policy which are, or may become, the subject of discussion by the Council, Cabinet or any Committee.
- 15.3. Such a request shall be made by the Leader of the political group to the Chief Executive who will make the necessary arrangements. The Chief Executive may delegate a request to an appropriate colleague to provide the briefing.
- 15.4. Officers should be required to give information and advice to political groups on Council business only and not on matters which are of a party/political nature. It is important that the political neutrality of Officers is preserved and that group confidentiality is maintained by Officers. Political neutrality will be assisted if Officers are not expected to be present at meetings or parts of meetings when matters of party or group business are to be discussed. Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business.
- 15.5. Where Officers provide factual information and advice to a party group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.

- 15.6. It must not be assumed that an Officer is supportive of a particular policy or view considered at a party group meeting simply because they have attended or provided information to the meeting.
- 15.7. Special care needs to be exercised whenever Officers are providing information and advice to a party or group meeting which includes persons who are not Councillors. Such persons are not bound by the law governing Councillors' conduct. For this reason and other reasons Officers may refuse to attend and/or not give information or advice.
- 15.8. Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other Councillors. This shall not prevent an Officer providing feedback to other Officers on a need-to-know basis.
- 15.9. In their dealings with party groups, Officers must treat each group in a fair manner.
- 15.10. Usually only Senior Managers with the consent of the Chief Executive may be asked to attend group meetings and will usually be excluded after the briefing.
- 15.11. The duration of an Officer's attendance at a party group meeting will be at the discretion of the group, but an Officer may leave at any time if they feel it is no longer appropriate to be there.
- 15.12. An Officer accepting an invitation to the meeting of one party group will not decline an invitation to advise another group about the same matter. They must give substantially the same advice to each without revealing what was said to or by them in the other Group meeting.
- 15.13. An Officer should be given the opportunity of verifying comments and advice attributed to them in any written record of a party group meeting.
- 15.14. No Councillor will refer in public or at meetings of the Council to advice or information given by Officers to a party group meeting.
- 15.15. The role of Officers is only to assist Councillors in discharging their role as Councillors for Council business and advocates for local communities. Officers should not be used in connection with party political campaigning or for private purposes.
- 15.16. Party group meetings are not empowered to make decisions on behalf of the Council and conclusions reached at such meetings are not formal decisions. This is still the case if an Officer attends the meeting.
- 15.17. Party groups are entitled to develop policies and plans and can expect Officers to provide information on a confidential basis to their group, provided that it is readily accessible, does not entail significant additional

work and does not involve the release of information which is confidential, exempt or would otherwise contravene any court order or legal provision.

- 15.18. Officers will respond to Councillor written queries (e-mail or correspondence) within five working days. The response will take the form of either a substantive reply to the query, or, an acknowledgement setting out a clear timescale within which a substantive reply will be sent. In the event that this timescale cannot subsequently be met, the Officer will contact the Councillor with an explanation and a revised timescale. Councillors will also endeavour to give equivalent timely responses to enquiries from Officers. However, Officers should not have unreasonable requests placed on them. Their work priorities are set and managed by relevant managers. Councillors should have regard to Officers existing work priorities when making requests of them.
- 15.19. Information given to a Councillor must only be used for the purpose for which it was requested.
- 15.20. It is an accepted convention that a Councillor of one party group will not have a 'need to know' and therefore no right to inspect a document that forms part of the internal workings of another party group.
- 15.21. These arrangements will be subject to the over-riding principle that the wishes of the Council regarding the use of the Council's scarce resources shall take precedence, where necessary, over those of political groups.