

## G PROTOCOL FOR RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS OF SEFTON COUNCIL

### **INTRODUCTION**

1. The Purpose of this Protocol is to serve Members and Officers as a guide to conducting their relationship in a way that promotes good governance. This is not intended as a comprehensive guide, aimed to cover all eventualities but rather as an outline of the core principles. The guidance in this Protocol is underpinned by the duties and obligations contained within the respective individual Codes of Conduct for Members and Officers.

### **DEFINITIONS**

2. Unless the context indicates otherwise, references to the term Council include the Cabinet, Overview and Scrutiny Committees, and other committees and sub-committees.
3. Unless the context indicates otherwise, the terms Member and Members includes elected Councillors and non-elected Members who have been co-opted to serve as part of a formal Committee structure or process
4. Officers and staff mean all persons employed by the Council including agency staff
5. Senior officer shall mean all senior management posts graded Hay 5 or above, this will generally refer to Heads of Service and above.
6. Party Group shall mean any group or part thereof acting in a party-political capacity.

### **PRINCIPLES**

7. Members and officers must at all times observe the principles set out in this protocol.
8. This protocol seeks to reflect the Nolan Principles underlying the respective Codes of Conduct which apply to Members and Officers: -
  - a. Selflessness

- b. Integrity
  - c. Objectivity
  - d. Accountability
  - e. Openness
  - f. Honesty, and
  - g. Leadership
9. The protocol has been approved by Full Council and the Council's Audit and Governance Committee will review the protocol from time to time.
10. Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only for as long as their term of office lasts. Officers are accountable to the Council as a whole for as long as they are employed. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction of the Council.
11. Good governance flows from a shared ethos or culture, as well as from systems and structures.
12. It is imperative to good governance and the integrity of the Council that the Members and Officers demonstrate a high level of respect and professional conduct in their dealings with one another.
13. To achieve good governance this code builds upon the seven principles for the code of people in public life that were established by the Committee on Standards, known as the Nolan Committee, as revised by the Localism Act 2011. These principles are located in Chapter 2 – Members' Code of Conduct
14. Officers are also bound by the Council's own code of conduct for employees and, in some cases, by the codes of their professional associations.

### **THE ROLE OF MEMBERS**

15. Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s) and/or the Monitoring Officer.
16. Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
17. Members represent their electoral ward and are advocates for the citizens who live in their area.
18. Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.
19. Members may approach officers of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their duty.
20. Members must respect the impartiality of officers and do nothing to compromise it.

### **THE ROLE OF OFFICERS**

21. As employees, Officers work to the instructions of their Senior Officers and not under instruction of individual members. Officers are accountable to the Chief Executive as Head of Paid Service.
22. Officers are responsible for giving advice to Members to enable them to fulfil their role.
23. Under the direction and control of the Council (including, as appropriate, the Cabinet, committees and sub-committees) officers manage and provide the Council's services within the framework of responsibilities delegated to them.
24. 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.
25. Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this protocol. In

particular, there is a statutory limitation on officers in politically restricted posts.

### **THE RELATIONSHIP BETWEEN MEMBERS AND OFFICERS: GENERAL**

26. The conduct of Members and officers should be such as to instil mutual confidence and trust.
27. The key elements are recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other both publicly and privately.
28. Officers work to the instructions of their senior officers, not individual Members. It follows that, whilst such officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their managers.
29. Members should direct their requests and concerns to the appropriate officer, in the relevant department. If there is any doubt on the part of the Member as to whom the appropriate officer is, or in light of the nature of the particular request or concern, Members are asked to approach a senior officer with the relevant department.
30. Officers reserve the right to refer a matter to a more senior officer, where they feel that it would not be appropriate to deal with the Member's request.

### **MEMBERS OF COMMITTEES OR SUB-COMMITTEES AND OFFICERS**

31. This section does not apply to the role of Cabinet or Cabinet Members, whilst acting in their capacity as Cabinet Member.
32. The appropriate senior officers will offer to arrange regular informal meetings with chairs or vice-chairs of committees or sub committees.
33. Senior officers (including the Monitoring officer and the designated Finance Officer) have the right to present reports and give advice to committees and sub-committees.

34. 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.
35. 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 chair. In these circumstances it is the officer, not the chairman, who takes the action and is responsible for it. A chair has no legal power to take decisions on behalf of a committee or sub-committee, neither should he/she apply inappropriate pressure on the officer.

### **PARTY GROUPS AND OFFICERS**

36. Senior officers may properly be asked to contribute when a party group deliberates matters concerning Council business.
37. Officers will review their attendance at a party group meeting, should the party group include individuals who are not Members of the Council.
38. An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.
39. An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on his/her behalf.
40. Officer support is limited to providing factual information or professional advice in relation to matters of Council business.
41. Officers will respect the confidentiality of any party group discussion 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 Members.
42. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis. Any such information will also be subject to the confidentiality requirements contained in Employees' Code of Conduct.  
(Chapter 10)

43. An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
44. No Member will refer in public or at meetings of the council to advice or information given by officers to a party group meeting.

### **LOCAL MEMBERS AND OFFICERS**

45. Members need to be fully informed about matters affecting their ward. Senior officers must ensure that all relevant staff are aware of the requirements to keep local Members informed thus allowing Members to contribute to the decision-making process and develop their representative role.
46. Issues may affect a single ward. Where they have a wider impact, a number of local Members will need to be kept informed.
47. Whenever a public meeting or event is organised by the Council with respect to a local issue, the relevant Cabinet Members and/or Members representing the wards affected will usually be invited to attend the meeting as a matter of course.
48. If a local Member 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:
  - a. an officer may attend but is not obliged to do so, and
  - b. the meeting may be held in Council-owned premises.
49. No such meetings should be arranged or held in the immediate run-up to Council elections. Any such meetings must comply with the Purdah<sup>1</sup> guidelines, which should be consulted when seeking clarity on such issues.
50. In the Purdah period it may be necessary to convene a public meeting due to an emergency situation or a previously unknown matter for which it would not be in the local public's interest to postpone. In these circumstances it will be

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<sup>1</sup> The term Purdah means the pre-election period in the UK; it refers to the time between when an election is announced and the final election results. The Cabinet Office issues guidance prior to each election.

appropriate for Officers and Members to attend the meeting with a view to resolving the local issue.

### **PUBLIC RELATIONS AND PRESS RELEASES**

51. The Council's Communications Team serve the Council as a whole and must operate within the limits of the Local Government Act 1986 and Code of Recommended Practice on Local Authority Publicity.
52. Council press releases are drafted by Officers and will often contain quotes (within the limits of the Local Government Act 1986) from the Leader and / or Deputy Leader of the Council, an Executive Member or Chair of committee and from the Mayor about ceremonial events. Such press releases are issued on behalf of the Council and it is not appropriate when repeating quotations from members to indicate their party-political affiliation.
53. It is acknowledged that some Council staff may receive and handle messages for Members on topics unrelated to the Council. Care should be taken to avoid Council resources being used for private or party-political purposes.
54. In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue but should respect the Council's procedures.
55. This part of the protocol should be read in conjunction with the Access to Information Rules in the Council's Constitution.
56. Members may request senior officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as Members. Where information is requested on behalf of a third party, it will only be provided if:
  - a. it is in the public domain, and

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- b. it is not barred by the Data Protection Act 1998 (as amended) from being given.
57. Every Member of a committee, and/or any other committee or sub-committee has a right to inspect documents about the business of the particular Committee.
58. A Member who is not a Member of a particular committee, other committee or sub-committee, or the Cabinet may have access to any document of that specific part of the Council provided:
  - a. he/she can demonstrate a reasonable need to see the documents in order to carry out his/her roles as a Member (the "need to know" principle), and
  - b. the documents do not contain "confidential" or "exempt" information as defined by the law.
59. Disputes as to the validity of a Member's request to see a document on a "need to know" basis will be determined by the Monitoring Officer. Officers should seek his/her advice if in any doubt about the reasonableness of a Member's request.
60. Where any person is expected to be present at the meeting of a particular committee, other committee or sub-committee or Cabinet, where documents containing confidential or exempt information (as defined under the Access to Information Procedure Rules (Chapter 12)), are to be discussed or distributed and the person in question is not privy to that information, then the following procedure shall be followed:
  - In advance of the meeting and at earliest possible notice, the relevant Officer of the Council shall be notified that such person may be present, and
  - Upon receipt of such notification, the Officer shall advise of the appropriate course of action at the meeting in order to ensure that the confidential or exempt information remains secure.
61. A Member should obtain advice from the Monitoring Officer in circumstances where he/she wishes to have access to documents or information:

62. where to do so is likely to be in breach of the Data Protection Act 1998 (as amended), or
63. where the subject matter is one in which he/she has a disclosable pecuniary or other interest as defined in the Members' code of conduct.
64. Information given to a Member must only be used for the purpose for which it was requested.
65. It is an accepted convention that a Member of one party group will not have a need to know and therefore a right to inspect a document which forms part of the internal workings of another party group.
66. Members and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
67. When requested to do so, officers will keep confidential from other Members advice requested by a Member.
68. Members and officers must not prevent another person from gaining access to information to which that person is entitled by law.

### **CORRESPONDENCE**

69. Correspondence between an individual Member and an officer should not be copied to another Member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, that is there should be no "blind" copies.
70. Official letters written on behalf of the Council should normally be in the name of the relevant officer. It may be appropriate in some circumstances (for example representations to a Government Minister) for letters to appear in the name of a Cabinet Member or the chair of an Overview and Scrutiny committee.
71. The Mayor may initiate correspondence in his/her own name.
72. Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a Member.

73. When writing in an individual capacity as a ward Member, a Member must make clear that fact.
74. If a Member has another role, distinct from their role as a Member, which regularly requires correspondence with the Council, the Member must make it clear in which capacity they are seeking information or advice.
75. When corresponding through any social media sites or public forums, Members and officers must have regard to the general principles of this code, the Members Code of Conduct and the ICT Acceptable Use Policy in Chapter 2 of the Constitution.

### **ACCESS TO PREMISES**

76. Officers have the right to enter Council land and premises to carry out their work. Some Officers have the legal power to enter property in the ownership of others.
77. Members have a right of access to Council land and premises to fulfil their duties. If appropriate, Members may wish to alert the relevant Head of Service and/or Director when they are visiting Council premises, particularly those that are not generally open to members of the public.
78. When making visits in their official capacity as elected Members, Members should adhere to their code of conduct plus any particular rules and regulations that apply to the site they are visiting.

### **USE OF COUNCIL RESOURCES**

79. The Council provides all Members with services such as printing and photocopying, and goods such as stationery and computer equipment, to assist them in discharging their roles as Members of the Council. They should not be used for private purposes or in connection with party political or campaigning activities.

80. Members should ensure they understand and comply with the Council's own rules about the use of such resources. Members should not put pressure on staff to provide resources or support which officers are not permitted to give, such as political or personal matters.

### **INTERPRETATION, COMPLAINTS AND ALLEGATIONS OF BREACHES**

81. This part of the protocol should be read in conjunction with the Council's "Whistleblowing" policy.

82. Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Monitoring Officer.

83. If direct discussion with the officer is inappropriate (for example because of the seriousness of the concern) or fails to resolve the matter, the Member should raise the issue with the officer's manager or the relevant senior officer.

84. An officer who believes a Member may have acted other than in accordance with this protocol should raise his/her concern with the Monitoring Officer.

85. Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Chief Executive and the relevant party group leader.

### **CONSEQUENCES FOR BREACHING THE CODE**

86. A serious breach of this protocol by an officer may lead to an investigation under the Council's disciplinary or capability procedure.

87. Breaches by a Member may be referred to the leader of the relevant party group, or in more serious cases may also involve breaches of the Member's code of conduct, and may be referred to the Council's Audit and Governance Committee.

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