

APPENDIX 2

[the text shown struck through is recommended for deletion and the text shown in italics and underlined is recommended for addition or insertion]

Part Five, Section B Protocol on Member/Officer Relations

Formal complaints about Members

9.14 These may be made to the employee's Service Head. Within five working days, they will give an indication of how the matter will be dealt with and roughly how long it might take. *Any complaint by a Chief Officer should be referred to the Chief Executive.*

9.15 Normally they will:

- ~~(a) investigate the matter, and~~
- ~~(b) (a) inform and involve the Monitoring Officer, and~~
- ~~(c) (b) advise the Leader of the party group of the complaint.~~

The Monitoring Officer may reject a complaint made under paragraph 9.16 (a) or (b) below on the grounds that it is vexatious, plainly ill-founded or substantially the same as a complaint previously determined under the procedures below. There is no right of appeal against the Monitoring Officer's ruling but this is without prejudice to any statutory rights to pursue the matter which the complainant may have. The Monitoring Officer has no power to reject a complaint made under the Members' Code of Conduct which must be considered by a Standards Assessment Sub-Committee.

9.16 *Complaints will be handled under one of the following procedures:*

- (a) Through a process of mediation if this is appropriate and both parties to the complaint agree; or*
- (b) Through an internal investigation by the Service Head or ~~their nominee~~ their appointee. The Service Head will consult the Head of Human Resources and the Monitoring Officer about the arrangements for the investigation and may appoint an appropriate person from within or outside the complainant's Service/Directorate to investigate. Whenever practicable an investigation will be completed within 6 months but there may be circumstances where this is not possible. ~~If this fails to resolve the complaint, there will be an investigation and report by a senior officer from outside the complainant's Directorate. This~~*

procedure is distinct from the statutory procedures under the Members' Code of Conduct;

(c) Through a formal complaint under the Members' Code of Conduct which is appropriate for more serious cases, or if the officer concerned requests it, provided that the facts fall within the scope of the Code.

Only one of the three procedures will be pursued at any time but a complainant has the right to discontinue under one procedure and to start the complaint afresh under another procedure. The advice of the Service Head and the Monitoring Officer on the options available in terms of procedures will be given to the complainant when the complaint is first made and before any change to a different procedure.

9.17 An officer making a complaint can ask the Monitoring Officer to advise whether the matter might amount to a potential breach of the Members' Code of Conduct. At all times, a complainant has the right to make a formal complaint that a Member has acted in breach of the Code of Conduct and any such complaint will be referred to an Assessment Sub-Committee of the Standards Committee for a decision as to whether it should be investigated under the Code. But not all complaints will fall within the scope of the Code and complainants will be advised wherever possible to refer less serious complaints to mediation or internal investigation.

~~9.16~~ 9.18 Some issues are matters of party discipline. Such breaches of this protocol will normally be dealt with by the party itself. More serious breaches falling under the Members' Code of Conduct, and where the Monitoring Officer advises that this is appropriate, will be referred to the Monitoring Officer and to the Standards Assessment Sub-Committee by the party Leader and/or by the complainant.

~~9.17~~ However, where the alleged breach of this protocol also amounts to a breach of the code of conduct for Members (a separate document), this will be referred by the party Leader to the Standards Board, an outside body, for investigation.

~~9.18~~ 9.19 Confidentiality should be maintained as appropriate.

Complaints under paragraphs 9.16 (a) and (b) will be kept confidential to the parties to the complaint, the investigator, persons interviewed in the course of the investigation, the party Leader and the Monitoring Officer. Complaints under 9.16 (c) follow the statutory procedure.

9.20 The outcome of complaints handled under paragraphs 9.16 (a) and (b) will be reported regularly by the Monitoring Officer to the Standards Committee for monitoring and for the Committee to

consider issuing guidance on ethical governance to the Council in the light of cases.