Procedure for dealing with complaints pursuant to the Members’ Code of Conduct

1. Introduction

1.1 The Localism Act 2011 requires local authorities to establish arrangements to deal with allegations of breaches by Councillors of the Members’ Code of Conduct. This Code of Conduct was approved by full Council in July 2012. The Council also established a Members’ Code of Conduct Committee to deal with, amongst other things, allegations of breaches of the Members’ Code of Conduct and approved the appointment of an Independent Persons in accordance with section 28(7) of the Localism Act 2011.

1.2 The procedure to be adopted in dealing with complaints against Councillors under the Members’ Code of Conduct is set out below.

2. Receipt of a complaint

2.1 A complaint should be made in writing, by letter or email, to the Monitoring Officer within 7 days of the alleged breach(es) of the Members’ Code of Conduct. Upon receipt, the Monitoring Officer will forward the complaint to an officer, for the purposes of making an initial assessment of the complaint.

2.2 The Councillor concerned will be informed of the complaint and will be afforded the opportunity to make representations concerning the complaint.

3. Initial assessment of complaints

3.1 The officer responsible for initially assessing a complaint will take into account both the content of the original complaint and any representations from the Councillor. The officer will make any further necessary enquiries, following which, the officer will determine whether or not there appears to have been any breach of the Members’ Code of Conduct.

3.2 If it appears to the officer that there has been no such breach, the officer will notify both the complainant and the Councillor concerned of this initial assessment. The complainant will be offered the opportunity to have this initial assessment decision reviewed by the Monitoring Officer.

3.3 The initial assessment decision will be reached within 28 days of receipt by the officer of the complaint.
4. **Review of an initial assessment decision**

4.1 Requests for review of the initial assessment decision should be made in writing by letter or email to the Monitoring Officer within 7 days of receipt of the initial assessment decision.

4.2 The Monitoring Officer will conduct a review of the initial assessment decision in conjunction with the Independent Person upon receipt of a request by the complainant. The Monitoring Officer will make a decision upon the review following liaison with the Independent Person. The Monitoring Officer’s decision will be communicated to both the complainant and the Councillor concerned within 28 days of the receipt of the request for review. In these circumstances, there will be no further appeal from the Monitoring Officer’s decision. If the complainant remains dissatisfied, it is open to them to refer the matter to the Local Government Ombudsman. (The Ombudsman deals with complaints alleging maladministration).

5. **Potential breach of the Code of Conduct**

5.1 If the officer undertaking the initial assessment of a complaint is of the view that there is a potential breach or breaches of the Members’ Code of Conduct, the matter shall be referred to the Monitoring Officer. The Monitoring Officer, in liaison with the Independent Person, will decide whether or not the complaint requires a formal investigation. Relevant factors as to whether or not a complaint should proceed to a formal investigation include:

- the seriousness of the alleged breach of the Code of Conduct
- where the integrity or reputation of the Council is at issue
- the necessity to do so in order to uphold the democratic process of the Council
- whether other action would be more appropriate such as training, mediation or other local/informal resolution
- whether the complaint is considered trivial, vexatious, politically motivated or malicious
- the date when the alleged breach(es) of the Code of Conduct occurred
5.2 If, following liaison with the Independent Person, the Monitoring Officer determines that a formal investigation is not warranted, an informal resolution will be explored with both the complainant and the Councillor concerned. Informal resolution will be completed within 14 days of the initial assessment decision. If the matter is resolved informally, then the complaint will not proceed any further.

5.3 If an informal resolution is not agreed, the matter will be referred by the Monitoring Officer to the Members’ Code of Conduct Committee for a final decision regarding the complaint. Determination of the matter by the Members’ Code of Conduct Committee will be made within 42 days of referral of the matter to the Committee.

6. **Formal investigation of complaints**

6.1 In cases where the Monitoring Officer considers a complaint warrants a formal investigation, he/she will appoint an officer to carry out the investigation. Upon conclusion, the officer will provide the Monitoring Officer and the Independent Person with a report setting out the officer’s findings and whether or not, in the officer’s view, there have been any breaches of the Members’ Code of Conduct. The investigation will be carried out and the report provided to the Monitoring Officer within 42 days of the investigation being commissioned by the Monitoring Officer.

6.2 Following receipt of the report, the Monitoring Officer will determine, in liaison with the Independent Person, whether or not there have been any breaches of the Members’ Code of Conduct. If the Monitoring Officer concludes there have been no breaches of the Members’ Code of Conduct, the complainant and the Councillor concerned will be notified. The complainant will have a right of appeal of that decision to the Members’ Code of Conduct Committee.

6.3 If the Monitoring Officer concludes that there have been breaches of the Members’ Code of Conduct committed by the Councillor concerned, consideration will then be given by the Monitoring Officer, in liaison with the Independent Person, whether or not an informal resolution between the parties would be appropriate. Where an informal resolution is considered appropriate, this will be discussed with the complainant and the Councillor concerned. Should an informal resolution be agreed, the complaint will not proceed any further. Should either the complainant or the Councillor concerned not agree the proposed informal resolution,
the matter will then be referred, on appeal, to the Members’ Code of 
Conduct Committee for a final decision in the matter. Such decision will 
be made within 42 days of referral of the matter to the Members’ Code 
of Conduct Committee.

6.4 In cases where the Monitoring Officer, in liaison with the Independent 
Person, determines that there have been breach(es) of the Code of 
Conduct and that the matter should be referred direct to the Members’ 
Code of Conduct Committee, the complainant and the Councillor 
concerned will be advised of the position.

7. **Hearings before the Members’ Code of Conduct 
Committee**

7.1 Where the Members’ Code of Conduct Committee meet to decide 
whether or not there have been any breaches of the Members’ Code of 
Conduct, or on appeal by either of the parties as set out above, the 
decision of that Committee shall be final. This also applies to any 
sanctions imposed by the Committee for any such breaches of the Code 
found by the Committee to have been committed by the councillor 
concerned. If either party is dissatisfied with the decision of the 
Members’ Code of Conduct Committee, the may refer the matter to 
the Local Government Ombudsman, who deals with matters pertaining 
to allegations of maladministration.