

**BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL**

<b>From: Joint Monitoring Officer</b>	<b>Report Number: L115</b>
<b>To: Council</b>	<b>Date of Meeting: 1.12.11 - MSDC 6.12.11 - BDC</b>

**CREATION OF A JOINT STANDARDS COMMITTEE**

**1. Purpose of Report / Main Issues**

- 1.1 To consider the creation of a Joint Standards Committee between Babergh and Mid Suffolk District Councils in place of the two current separate Committees.

**2. Recommendations to Council**

- 2.1 That a Joint Standards Committee between Babergh and Mid Suffolk District Councils be established to come into operation with effect from 7 December 2011 in place of the existing Standards Committees and the Articles of each Council Constitution be amended accordingly as set out in Appendix 1 .
- 2.2 That the terms of reference for the Joint Standards Committee at Appendix 2 be adopted.
- 2.3 That the revised Monitoring Officer Protocol at Appendix 3 be adopted and authority be given to the Joint Standards Committee to update the summary of Monitoring Officer functions following implementation of the Localism Act 2011.
- 2.4 That the Councils' Scheme of Allowances for co-opted members of the Standards Committee be aligned with effect from the start of the 2012/13 municipal year following a review by the Independent Remuneration Panel.
- 2.5 That the membership of the Joint Standards Committee to initially comprise all of the current members of each Standards Committee.
- 2.6 Pending a further report to Council on any changes necessitated following implementation of the Localism Act, with effect from the 2012/13 municipal year:-
- 2.6.1 the Joint Standards Committee shall comprise a total of 12 members being 4 elected members, 4 parish/town council representatives and 4 independent members.
- 2.6.2 each Council will appoint 2 elected members to the Joint Standards Committee (not being either the Chairman or Leader of the Council / Chairman of Strategy Committee).
- 2.6.3 that Full Council will appoint co-opted members to the Joint Standards Committee for a term of 4 years.

**The recommendations are made to Full Council (1.12.11 at MSDC and 6.12.11 at BDC)**

### 3. Financial Implications

- 3.1 Co-opted members of Mid Suffolk's Standards Committee are entitled to an allowance of £1,842 per annum and the Chairman an allowance of £2,763. The Committee is established with 6 co-opted members (there are currently 2 vacancies) and so the total cost of budgeted allowances is £11,973.
- 3.2 Co-opted members of Babergh's Standards Committee are entitled to an allowance of £730 per annum and the Chairman may claim an additional allowance of £1,824 pa. The Vice-Chairman is entitled to an additional allowance of £364 pa. The Committee has 6 co-opted members and so the total cost of budgeted allowances is £6,932.
- 3.3 In addition, both Councils pay co-opted members mileage to attend meetings. It should be noted however that not all co-opted members have claimed their allowances/mileage.
- 3.4 The level of allowances paid by Mid Suffolk was reviewed by the Independent Remuneration Panel in December 2010 to determine whether the allowances should be reduced to the same level paid by Babergh. The Panel recommended no change and Full Council approved the recommendation on 6 January 2011.
- 3.5 A Joint Standards Committee of 12 members, 8 being co-opted members, would result in a total reduction of 4 co-opted members. If the allowances for Mid Suffolk are applied to the Joint Committee the cost in allowances would reduce from a combined total of £18,905 to £15,657 delivering a saving of £3,248. The Independent Remuneration Panel would need to review the allowances paid to co-opted members before any change (to Babergh's Scheme) could be implemented.
- 3.6 Efficiency savings would also be achieved by reports not being duplicated, a reduced number of meetings overall and only one Committee being serviced.
- 3.7 As the Committee meetings would alternate between the two Council offices, claims for mileage are expected to increase however.

### 4. Risk Management and Legal Issues

- 4.1 This report is most closely linked with the Council's Corporate / Significant Business Risk No. 7 (Governance). Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Conflict of interests arising between the Councils	Low	Significant	Achieve balance of membership between elected, parish/town and independent members.

## **5. Consultations**

- 5.1 The Joint Monitoring Officer has consulted the Suffolk Association of Local Councils who are in support of the proposal. They have commented that a Joint Standards Committee *“sounds like a very sensible idea and would give you much more flexibility. There is also the cost savings for the administration and a larger pool of representatives to pull on. This also will reduce the likelihood of any panel member during an adjudication being known to the councillor involved. In addition to the valuable continued consistent approach that you have introduced across both districts.”*

## **6. Equality and Diversity Impact**

- 6.1 An Equality Impact Assessment (EqIA) has not been completed because the establishment of a Joint Standards Committee does not impact upon any of the equality groups.

## **7. Key Information**

- 7.1 At present every local authority must establish a Standards Committee (section 53 Local Government Act 2000). The role of Standards Committees is expected to change with regard to the handling of complaints once new provisions under the Localism Act 2011 have been implemented. In particular, the Act requires Councils to put in place a complaints process which includes the appointment of at least one independent person who is not a member of the Council or any of its Committees to give a view on any complaint against a councillor before a decision is taken. It is unclear at this point how soon the changes will be implemented, but an Order of the Secretary of State will need to be made and existing Regulations revoked. It is therefore likely to be some weeks or months away. Going forward there will remain a need to retain a Standards Committee to make decisions on complaints and to discharge the new duty under the Localism Act for councils to promote and maintain high standards of conduct by their members.
- 7.2 The creation of a Joint Standards Committee between Babergh and Mid Suffolk would enable a single approach to be taken in advising the Councils on the measures required under the Localism Act and also to guide the two Councils as their transformation agenda progresses. This report sets out proposals for the composition and terms of reference for a Joint Committee pending any changes necessitated through the adoption of new processes for the handling of complaints pursuant to the Act and any regulations.
- 7.3 Regulations were introduced in 2009 to enable two or more councils to set up a joint standards committee. The decision to establish a Joint Standards Committee and its terms of reference are reserved to Full Council.
- 7.4 Currently, Babergh’s Standards Committee comprises 10 members being, 4 elected members, 3 independent members, 2 parish representatives and 1 town council representative. Mid Suffolk’s Committee comprises 9 members, being 3 elected members, 3 independent members, 1 parish representative and 2 parish/town council vacancies which have not been filled pending the possible establishment of a Joint Committee.

7.5 Following feedback from members of the Standards Committees it is recommended that the membership of the two Committees is initially merged to form a Joint Committee (of 17). Then with effect from Annual Council 2012 (and subject to any changes necessitated following implementation of the Localism Act) the membership of the Joint Committee be reduced to 12 members with 2 elected members from each council, 2 independent members appointed by each Council (recommendation to be made to Full Council following a selection process) and the 4 existing parish/town representatives being re-appointed.

**8. Appendices / Background Documents**

Title	Location
(a) Revised Articles of the Constitution	Attached (Appendix 1)
(b) Terms of Reference for the Joint Committee	Attached (Appendix 2)
(c) Joint Monitoring Officer Protocol	Attached (Appendix 3)

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## Articles of the Constitution

### The Babergh and Mid Suffolk Joint Standards Committee

#### Joint Standards Committee

Babergh and Mid Suffolk will together establish a Standards Committee known as the Babergh and Mid Suffolk Joint Standards Committee. Neither the Chairman of the Council nor the Leader of the Council/Chairman of Strategy Committee shall be entitled to be appointed as a Member of the Joint Standards Committee.

#### Composition

*Standards Committees do not have to comply with the political balance rules in section 15 of the Local Government and Housing Act 1989.*

- (a) **Membership.** The Joint Standards Committee will be composed of:
- four Councillors (2 from each Council);
  - four persons who are not Councillors or an Officer of the Council or any other body having a Standards Committee (Independent Members);
  - four Members of a Parish/Town Council in the Councils' areas (Parish Members)
- (b) **Independent Members.** Independent Members will be entitled to vote at meetings and at least one Independent Member must be present at a meeting for the meeting to be valid.
- (c) **Parish Members.** Parish/Town Representatives will be entitled to vote at meetings. At least one Parish Member must be present when matters relating to Parish/Town Councils or their Members are being considered.
- (d) **Chairing the Committee.** The Joint Standards Committee will nominate the Chairman of the Committee, who must be an Independent Member, at its first meeting in each municipal year. Unless there is unanimous agreement of those present and voting, the Chairmanship will alternate annually between appointees of each Council. The Committee will nominate a Vice-Chairman of the Committee who must be an Independent Member and, unless there is unanimous agreement of those present and voting, the Vice-Chairman will be an appointee of the other Council from that of the Chairman.
- (e) The quorum is one-third, including at least one Independent Member and an elected member from each Council.
- (f) The provisions of the (Standards Committee) (England) Regulations 2008 are applicable and the Standards Committee (Further Provisions) (England) Regulations 2009.

## Role and Function

The Standards Committee will have the following roles and functions:

- (a) To design, monitor and review the ethical framework of the Councils. The Committee's powers shall include responding to consultation documents and the development of codes of conduct and guidance on standards related matters. The adoption and revisions to any code of conduct for councillors shall be reserved to the Full Council.
- (b) To promote a culture of openness, accountability and probity in order to ensure the highest standards of conduct.
- (c) To promote the values of putting people first, valuing public service and creating a norm of the highest standards of personal conduct.
- (d) To oversee and manage programmes of guidance, advice and training on ethics, standards and probity for Councillors.
- (e) To be responsible for the Council's public register of Members' interests and to receive reports from the Monitoring Officer on the operation of the register from time to time.
- (f) To be responsible for written guidance and advice on the operation of the system of declaration of Members' interests and to receive reports from the Monitoring Officer on the operation of the system from time to time.
- (g) To establish, monitor and issue advice and guidance to Councillors on a system of dispensations to speak on, or participate in, matters in which they have interests and to grant dispensation in appropriate cases on matters relating to the Members' Code of Conduct.
- (h) To exercise the functions of the Council in relation to the ethical framework and standards of conduct of Parish Councils, Joint Committees and other bodies.
- (i) To establish Sub-Committees to assess, review and determine complaints against Councillors.
- (j) To consider and grant exemptions for politically restricted posts.
- (k) To determine appropriate action on matters referred to the Standards Committee by the Council or its Committees.
- (l) To support the Monitoring Officer in his or her statutory role and the issuing of guidance on his or her role from time to time.
- (m) To support the section 151 officer responsible for the administration of the Council's financial affairs in his or her statutory role in connection with financial probity and the issuing of national guidance on his or her role from time to time.
- (n) To establish and maintain a process to sanction Councillors as appropriate (subject to statute, regulations and Government guidance).
- (o) To manage any resources assigned to the Committee subject to any framework set by Council or Committee.

- (p) To be responsible for securing equality in relation to the functions of the Joint Standards Committee.
- (q) To receive, consider and make decisions on reports received from the Strategy /Executive or Scrutiny Committees.
- (r) To refer any issue of standards and probity to the Scrutiny Committee for consideration as deemed appropriate by the Standards Committee.
- (s) To delegate to any Sub-Committee as appropriate and manage that Sub-Committee.
- (t) To receive, consider and make decisions on reports received from any Sub-Committees and to make recommendations to Council in relation to matters reserved to the Council by statute or Procedure Rules.
- (u) To make representations to the Local Government Association and central Government or other organisations about any matter relating to the general principles of conduct for Members of the Council.
- (v) To consider and determine any issues in connection with the Public Interest Disclosure Act 1998 or any other legislation which appears to the Committee to be relevant.
- (w) To be responsible for liaison between the Council and external agencies, in particular the District Auditor and the Local Government Ombudsman, in connection with any matter within the Committee's terms of reference.
- (x) To provide advice and guidance to Members and make arrangements for training in connection with any matters within the terms of reference of the Committee.
- (y) To review and make recommendations on Members' training generally.
- (z) To oversee the Councils' protocols insofar as they relate to the promotion and maintenance of high standards of conduct.

### **Additional roles of Standards Committees**

The Council may assess the scope for further work for the Joint Standards Committee as events develop.

### **Terms of Reference**

The Babergh and Mid Suffolk Joint Standards Committee will have the Terms of Reference set out in this Constitution.





**Terms of Reference**

**The Babergh and Mid Suffolk Joint Standards Committee**

**1. Definitions**

In this Constitution:

“the Act” means the Local Government Act 2000

“the Councils” means

- (a) Babergh District Council
- (b) Mid Suffolk District Council

“Executive/Strategy Member” means a member of either the Executive Committee of Mid Suffolk District Council or the Strategy Committee of Babergh District Council

“Independent Member” has the same meaning as in the Standards Committee Regulations

“the Joint Standards Committee” means the Babergh and Mid Suffolk Joint Standards Committee

“Monitoring Officer” means the officer designated by the Councils under section 5 of the Local Government and Housing Act 1989 and any deputy nominated by them acting where they are unable to do so owing to absence or illness

“Proper Officer” has the same meaning as in the Local Government Act 1972

“the Regulations” means the Standards Committee (Further Provisions) (England) Regulations 2009

“Relevant Authority” has the same meaning as in the Act

“Scheme of Allowances” means any scheme of allowances made under the Local Authorities (Members Allowances) Regulations 2003

“the Standards Committee Regulations” means The Standards Committee (England) Regulations 2008

**2. Constitution and Terms of Reference**

2.1 The Councils, in exercise of their powers under the Regulations, have each determined to establish a joint standards committee, to be known as the Babergh and Mid Suffolk Joint Standards Committee to exercise those functions conferred by statute and as set out in this Constitution.

2.2 The Joint Standards Committee is the standards committee to which written allegations under section 57A (1) of the Act may be sent for both of the Councils.

2.3 This Constitution contains the Terms of Reference of the Joint Standards Committee for the purposes of Regulation 15 of the Regulations and section 53 (9) of the Act.

### **3. Functions to be exercised by the Joint Standards Committee**

3.1 The Joint Standards Committee may exercise the functions set out in the Articles of the Constitution.

### **4. Membership of the Joint Standards Committee**

4.1 The Joint Standards Committee shall consist of:

- a) four members of the Councils, appointed by those councils in accordance with paragraph 4.2;
- b) four members of parish/town councils for which either of the Councils is responsible, appointed in accordance with paragraph 4.5;
- c) four Independent Members, appointed in accordance with paragraph 4.6.

4.2 Subject to paragraphs 4.3 and 4.4, the Councils shall each appoint two members of their authorities to be members of the Joint Standards Committee:

#### **4.3 Appointment of Executive / Strategy Committee Members**

- a) No more than one member from each Council appointed under paragraph 4.2 shall be a member of the Executive or Strategy Committee of the Councils.
- b) If an Executive/Strategy Member has previously been appointed by a Council to and is still a member of the Joint Standards Committee then no further appointment of an Executive/Strategy Member by that Council will be valid.
- c) Otherwise, if a Council seeks to appoint more than one Executive/Strategy Member then only one appointment will be valid and the Council will be required to make a new appointment.

4.4 None of the members of the Councils appointed under paragraph 4.2 shall be the Chairman of the Council or the Leader of the Council or Chairman of Strategy Committee of either Council.

4.5 The Councils (whilst responsible for the code of conduct for parish/town councils) shall appoint a total of four members from parish councils across their districts, who are not also members of either Council, to be members of the Joint Standards Committee.

4.6 The Councils shall each appoint two Independent Members (in accordance with the provisions of the Standards Committee Regulations) to be members of the Joint Standards Committees:

4.7 A person who is disqualified under Part 5 of the Local Government Act 1972 or by the decision of a Case Tribunal under Part 3 of the Act for being a member of a relevant authority shall be disqualified from membership of the Joint Standards Committee.

### **5. Tenure of office and casual vacancies**

5.1 A co-opted member of the Joint Standards Committee will hold office until one of the following occurs:

- a) He or she resigns by giving written notice to the Proper Officer of the Council that appointed him or her;

- b) Expiry of a period of four years from the date of appointment. A co-opted member may be re-appointed by Full Council.
- c) He or she is removed or replaced by the Council that appointed him or her;
- c) He or she is disqualified from membership of the Joint Standards Committee;
- d) He or she ceases to be eligible for appointment to the Joint Standards Committee in the capacity in which he or she was appointed;
- e) The Councils determine to reduce the size of the Joint Standards Committee and not less than one calendar month's notice is given to the Member to terminate his or her membership of the Joint Standards Committee
- f) The Council which appointed him or her ceases to participate in the Joint Standards Committee.
- g) Revocation of the requirement for the Councils to maintain a standards committee and one or both of the constituent authorities determine not to continue a standards committee

5.2 A casual vacancy shall be filled as soon as possible by the Council which appointed the member of the Joint Standards Committee whose membership has ceased.

## 6. **Sub Committees**

6.1 The Joint Standards Committee shall appoint Sub Committees in so far as is necessary to exercise its functions under Part 3 of the Act and may establish Sub Committees for other purposes in the exercise of its functions.

6.2 Each person appointed as a member of a Sub Committee must be a member of the Joint Standards Committee.

6.3 The Joint Standards Committee will determine the membership and terms of reference of the Sub Committee, and the quorum for its meetings, when it is appointed.

6.4 If the Joint Standards Committee appoints more than one Sub Committee to exercise one or more of its functions then it shall ensure that the Proper Officer of the Council/s providing support to the Joint Standards Committee allocates particular matters to a Sub Committee first on the basis of the availability of the members required to constitute the Sub Committee, and thereafter by rotation, and summonses meetings accordingly.

## 7. **Meetings and proceedings**

7.1 The regularity of meetings and rules for the conduct of proceedings of the Joint Standards Committee (and its Sub Committees) will be set by the Committee. The rules of procedure must be consistent with the requirements of the Act and the Standards Committee Regulations. They may provide for different procedures to be followed when the Joint Standards Committee or a Sub Committee is exercising different functions.

## 8. **Monitoring Officer**

8.1 The Joint Monitoring Officer will agree and keep under review a protocol about how they will exercise their functions in relation to the matters dealt with by the Joint Standards Committee.

8.2 The initial protocol is set out in Appendix 1. The Joint Monitoring Officer will inform the Joint Standards Committee and the Councils of any changes to the protocol.

## 9. **Support**

9.1 The Joint Standards Committee will alternate its meetings between the offices of the Councils and the Councils agree to provide accommodation and professional, technical, administrative and clerical support for meetings held on its premises.

9.2 The Proper Officer appointed by each Council for the time being providing such support will discharge the proper officer functions under the Local Government Act 1972 that relate to the meetings of the Committee. He or she will therefore prepare agendas and minutes and summaries of meetings and arrange for notices and other communications to and from the Joint Standards Committee to be given and received, save in so far as the Joint Monitoring Officer agrees to undertake this activity.

## 10. **Expenses of Joint Standards Committee**

10.1 The expenses of the Joint Standards Committee and of the discharge of functions relating to matters dealt with by the Joint Standards Committee will be defrayed equally by the Councils.

## 11. **Allowances**

11.1 The Councils will review the Schemes of Allowances for their members with a view to ensuring that all members of the Joint Standards Committee of the same type and whose responsibilities are, in principle, the same, should have broadly the same entitlement:

11.2 An agreement reached under paragraph 11.1 shall not bind the Councils so as to prejudice the legality of their decisions, or compromise their decision-making processes, under the Local Authorities (Members Allowances) Regulations 2003.

## 12. **Withdrawal from the Joint Standards Committee**

12.1 A Council may cease to participate in the Joint Standards Committee by resolution to that effect taking effect on the date of the next annual meeting of that Council, and communicated in writing to the Proper Officer the time being at least three months before the date on which it is to take effect.

### Joint Monitoring Officer Protocol

1. A Joint Monitoring Officer will be appointed by Full Council of Babergh and Mid Suffolk District Councils to discharge the statutory Monitoring Officer role on behalf of both Councils and to undertake such other functions as the Councils may agree.
2. The Joint Monitoring Officer undertakes to discharge his or her responsibilities outlined in this paper with determination and a manner which will enhance the reputation of the Council. In general terms his or her ability to discharge these duties depends on excellent working relations with colleagues and Members but also the flow of information and access to debate particularly at early stages.
3. The following arrangements and understandings between Joint Monitoring Officer and colleagues and Members are designed to help ensure the effective discharge of their functions:
  - (a) The Joint Monitoring Officer will have advance notice of Joint Management Board meetings, the agenda and reports and the right to attend and speak.
  - (b) Advance notice of meetings whether formal or informal between the Chief Executive, Directors and Members of Executive / Strategy Committee or Chairmen will be given to the Joint Monitoring Officer where any procedural, *vires* or other constitutional issues are likely to arise.
  - (c) All Officers will alert the Joint Monitoring Officer to any emerging issues of concern including legality, probity, *vires* and constitutional issues.
  - (d) The Joint Monitoring Officer or his or her staff will have copies of all reports to Members.
  - (e) The Joint Monitoring Officer is expected to develop good liaison and working relations with any external body tasked with overseeing the ethical framework, the District Auditor and the Ombudsman including the giving and receiving of relevant information whether confidential or otherwise.
  - (f) The Joint Monitoring Officer will have a special relationship with the Chairman of the Council, Chairmen of the Standards and Scrutiny Committees and will ensure the Head of Paid Service and Section 151 Officer/s has up-to-date information regarding emerging issues.
  - (g) The Head of Paid Service, the Section 151 Officer/s and Joint Monitoring Officer will consider and recommend action in connection with current governance issues and other matters of concern regarding probity.

- (h) In carrying out any investigation (whether under Regulations or otherwise) the Joint Monitoring Officer will have unqualified access to any information held by the Council and any employee who can assist in the discharge of their functions.
- (i) The Joint Monitoring Officer will have control of a budget sufficient to enable him or her to seek Counsel's opinion on any matter he or she feels appropriate concerning their functions.
- (j) The Joint Monitoring Officer will be responsible for preparing a training programme for Members on the ethical framework subject to the approval of the Standards Committee.
- (k) In consultation with the Chairman of the Council, the Joint Monitoring Officer may defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved.
- (l) The Joint Monitoring Officer will make a report to the Council from time to time as necessary on the staff, accommodation and resources they require to discharge his/her functions. Staff in the democratic and legal services section will mainly comprise the staff responsible to assist the Joint Monitoring Officer in the performance of his or her functions.
- (m) The Joint Monitoring Officer will appoint one or more deputies and keep them briefed on emerging issues.
- (n) The Joint Monitoring Officer will make arrangements to ensure good communication between their office and Clerks to Parish/Town Councils.
- (o) The Joint Monitoring Officer will be expected to make enquiries into allegations of misconduct of any Member of the Council where he or she considers it appropriate to do so. The Joint Monitoring Officer will also conduct investigations into alleged misconduct or pursue other action as stipulated by the Standards Committee in accordance with any statutory provision.
- (p) The Joint Monitoring Officer will remain alert to the possibility of a conflict of interest arising in the discharge of his or her duties for both Councils. In circumstances where a conflict of interest has or may arise (or could appear to do so) the Joint Monitoring Officer will make arrangements for a Deputy Monitoring Officer to assume responsibility for the matter in hand or act on behalf of one of the councils, as appropriate.