

BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

From: Monitoring Officer	Report Number: M8
To: Joint Standards Committee and Council	Date of meeting: 23 April 2012 24 and 26 April 2012

THE LOCALISM ACT 2011 – STANDARDS FUNCTIONS

1. Purpose of Report

- 1.1 To approve arrangements for a new Joint Standards Committee to come into operation once the amended standards regime is implemented under the Localism Act 2011.

2. Recommendations

- 2.1 That upon the date of implementation of Chapter 7 of the Localism Act 2011 the Councils' standards functions be discharged by a newly constituted Joint Standards Committee between Babergh and Mid Suffolk comprising of 6 elected members (3 from each Council, not politically balanced) plus such co-opted members as each Council may determine in accordance with recommendation 2.2 below.
- 2.2 That each Council has the option to appoint 1 non-voting independent member and/or 1 non-voting parish/town council representative to the Joint Standards Committee.
- 2.3 That the terms of reference at Appendix 1 be adopted for the new Joint Standards Committee and the Monitoring Officer be authorised to make any minor changes as may be necessary.
- 2.4 [That the Monitoring Officer be authorised to initiate a selection process for the appointment of co-opted members as set out in recommendation 2.2 with appointments to be made at a future meeting of Full Council.]
- 2.5 [That the allowances for any co-opted Members of the new Joint Standards Committee be reviewed and fixed at a future meeting of Full Council.]
- 2.6 That the proposals for a County wide pool of 'independent persons' be approved with appointments to be made at a future meeting of Full Council.
- 2.7 That the Constitution be amended accordingly.

The recommendations are made to Full Council

N.B. Recommendations 2.4 and 2.5 only apply if Council wishes to appoint co-opted members

3. Financial Implications

- 3.1 The Councils will need to contribute towards the costs of a county wide pool of 'independent persons' whose views must be sought on standards complaints that are investigated. The 'pool' will comprise of up to 8 persons. A retainer would be paid to each with an additional sum for the consideration of each complaint that has been investigated. A retainer of £250 pa and £50 per complaint is currently being proposed. Sums of this order would be within existing budgetary provision.
- 3.2 If a Council decides to appoint co-opted members to the Joint Standards Committee then an allowance would be payable to those members by the Council making the appointments. The amount of the allowance would need to be reviewed to reflect the different and more limited role of the standards committee and the level be set by Council.

4. Risk Management

- 4.1 Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
The Councils do not have adequate measures in place to fulfil its functions under the Localism Act 2011.	Low	Critical	Early consideration of the new requirements

5. Consultations

- 5.1 Members and officers across the County have been in dialogue over the new requirements and how they may be fulfilled through a common approach where possible.

6. Equality Analysis

- 6.1 Not relevant to this report.

7. Shared Service / Partnership Implications

- 7.1 The Councils already have a Joint Standards Committee and Joint Monitoring Officer and so arrangements across the Councils will be consistent although it will remain for each Council to decide whether they wish to have co-opted members on any new Committee.

8. Key Information

Under the Localism Act 2011, there will be radical changes to the current standards regime. Councils will be required to have a Code of Conduct based upon the seven Nolan principles - selflessness, integrity, objectivity, accountability, openness, honesty and leadership. The Code will also need councillors to register their pecuniary and non-pecuniary interests. It will be a criminal offence for a councillor, without reasonable excuse, to fail to register or declare an interest or to knowingly or recklessly provide false or misleading information about their interests. A county wide Code of Conduct will be brought forward to a future meeting of Full Council for adoption.

- 8.1 Councils will need to have a system to deal with complaints against their councillors (and parish councillors). This system must include securing and having regard to the views of an 'independent person' where the complaint is to be investigated. The independent person cannot be anyone who has been a member, co-opted member or officer of the council in the past 5 years. This therefore excludes our current independent members from undertaking the role of 'independent person' for our Councils although they may exercise the role for other Suffolk authorities. It is proposed that a county 'pool' of up to 8 independent persons be established with the advertising costs and the retainers payable to each person being equally shared by the councils.
- 8.2 The new complaints system will be quicker, simpler and fairer. The Member will be sent a copy of the complaint and have opportunity to comment at the outset. It is proposed that the Monitoring Officer then filters complaints in consultation with the independent person with scope for the complaint to be either rejected, referred to the political leader for action, a local resolution (e.g. an apology, training) or investigated. An investigation would be conducted through written representations and the details considered by the independent person who would make a recommendation on whether the Code has been breached. A recommendation of breach of the Code would then be considered by the allocated Committee. Discussions are ongoing as to whether this part of the process could be discharged by a county wide committee made up of elected members from each participating council. If this can be achieved, a report will be made to a future Council meeting. Notwithstanding this, arrangements need to be put in place now to ensure that the Councils are set up to discharge their broader responsibilities under the Localism Act as soon as the new provisions come into force.
- 8.3 Whilst Councils will not be required to have a standards committee there will be a statutory duty to promote and maintain high standards of member conduct. Other Suffolk councils propose to allocate this broad function to their Audit Committee. As Babergh and Mid Suffolk do not have an Audit Committee, this report is being brought forward to recommend instead that a new Joint Standards Committee be established to take effect with the new arrangements (i.e. from the anticipated 1 July start date). This approach will not prevent a county wide committee also being established to determine complaints.
- 8.4 The existing rules for standards committees will not be applicable to a new Joint Standards Committee. For instance, there will be no requirement to have co-opted members (e.g. independent and parish/town council representatives) and if they are appointed they will not be entitled to vote on decisions. The suggested Terms of Reference at Appendix 1 provide the option for the Councils to appoint 2 co-opted members each.
- 8.5 Political balance rules would apply to a replacement Joint Standards Committee unless Full Council agrees that its authority's seats on the Committee are not politically balanced and there are no dissenting votes. The informal steer from members has been that it would be preferable for the new Committee appointments not to be restricted by political balance, but this remains a decision for Council. Nominations and appointments to a new Joint Committee can be made at Full Council in June.

9. Appendices

- 9.1 Appendix 1 – Articles of the Constitution for a new Joint Standards Committee.
Appendix 2 – Terms of Reference for a new Joint Standards Committee.

10. Background Documents

- 10.1 None

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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 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

The Committee is constituted pursuant to sections 101,102,103 and 111 of the Local Government Act 1972.

The political balance rules in section 15 of the Local Government and Housing Act 1989 will not apply.

- (a) **Membership.** The Joint Standards Committee will be composed of:
- Six Councillors (three from each Council) (Elected Members);
 - Up to two persons (one for each Council) who are not Councillors or an Officer of the Council or any other local authority (Independent Members);
 - Up to two Members (one for each Council) of a Parish/Town Council in the Councils' areas (Parish Members)
- (b) **Independent Members.** Any Independent Member appointed by a Council to the Joint Standards Committee will not be entitled to vote at meetings.
- (c) **Parish Members.** Any Parish/Town Representatives appointed by a Council to the Joint Standards Committee will not be entitled to vote at meetings.
- (d) **Chairing the Committee.** The Joint Standards Committee will nominate the Chairman of the Committee, who must be an Elected Member, at its first meeting in each municipal year. Unless there is unanimous agreement of those present and voting, the Chairmanship will alternate between appointees of each Council.
- (e) The quorum is four, including at least three Elected Members.

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 a 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 Councillors' 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 registration of Councillors' 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 Councils' 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 receive reports from the Monitoring Officer and any independent person appointed by the Council pursuant to the Localism Act 2011.
- (j) To consider and grant exemptions for politically restricted posts.
- (k) To determine appropriate action on matters referred to the Standards Committee by the Monitoring Officer, 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 consider complaints against Councillors, including the issuing of sanctions, 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 establish and 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 Councillors.
- (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 Councillors 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 Councillors' 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.

Appendix 2

Terms of Reference

The Babergh and Mid Suffolk Joint Standards Committee

1. Definitions

In this Constitution:

“the Act” means the Local Government Act 1972

“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” means any person appointed to the Joint Standards Committee who is not a Member or Officer of the Councils or of any other local authority

“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 Act

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

2. Constitution and Terms of Reference

- 2.1 The Councils, in exercise of their powers under sections 101, 102, 103 and 111 of the Act, 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 as set out in these Terms of Reference and in the Constitution.

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) six members of the Councils, appointed by those councils in accordance with paragraph 4.2;

- b) up to two members of parish/town councils for which either of the Councils is responsible, appointed in accordance with paragraph 4.5;
 - c) up to two Independent Members, appointed in accordance with paragraph 4.6.
- 4.2 Subject to paragraphs 4.3 and 4.4, the Councils shall each appoint three 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 Each Council (whilst responsible for considering complaints under the code of conduct adopted by parish/town councils) may appoint one member from a parish/town council in their districts, who are not also members of either Council, to be a member of the Joint Standards Committee.
- 4.6 Each Council may each appoint one Independent Member to be a member of the Joint Standards Committees:
- 4.7 A person who is disqualified under Part 5 of the Local Government Act 1972 shall be disqualified from membership of the Joint Standards Committee.
5. **Tenure of office and casual vacancies**
- 5.1 Any 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 functions of the Joint Standards Committee are allocated to another committee
- f) 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
- g) The Council which appointed him or her ceases to participate in the Joint Standards Committee.
- h) A resolution of the Councils not to maintain a standards committee or not to continue with co-opted members of the Joint Standards Committee.

5.2 A casual vacancy may 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 may appoint Sub Committees for 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. 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 Monitoring Officer will agree and keep under review a protocol about how the Monitoring Officer will exercise their functions in relation to the matters dealt with by the Joint Standards Committee.

8.2 The Joint Standards Committee will be responsible for approving 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 Act 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 save that allowances/expenses payable to any co-opted member shall be borne by the appointing Council.

11. **Allowances**

11.1 The Councils will ensure that all co-opted 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.