

BABERGH DISTRICT COUNCIL or / and MIDSUFFOLK DISTRICT COUNCIL

To: Overview and Scrutiny (Stewardship) Committee	Report Number: M178
From: Head of Corporate Organisation	Date of meeting: 19 March 2013

RECOMMENDATIONS ON CONSTITUTIONAL CHANGE

1. Purpose of Report

- 1.1 To consider the report of the Joint Constitutional Review Group and recommend the proposals to Council subject to the acceptance of the recommendations by the Mid Suffolk Council.

2. Recommendations

- 2.1 That Overview and Scrutiny (Stewardship) Committee recommend to Council the adoption of the changes to the Constitution as set out in the report, subject to the proposals being agreed by Mid Suffolk Council.
- 2.2 Delegated authority be given to the Chief Executive in consultation with the Group Leaders to agree any alteration to the proposals arising as recommended by the Joint Constitutional Review Group.

The Committee is asked to make a recommendation to Full Council on the above matter(s).

3. Financial Implications

- 3.1 It is difficult to assess the financial changes between the models until the independent member remuneration panel have assessed the roles.

4. Risk Management

- 4.1 This report is most closely linked with the Council's Corporate / Significant Business Risk No. SIT1.

5. Consultations

- 5.1 There has been widespread member and officer consultation on the proposals which is continuing with a second member workshop held in March. In addition Strategy committee will also discuss the matter prior to this Committee with verbal feedback being given at the meeting.

6. Equality Analysis

- 6.1 There are no equality issues.

7. Shared Service / Partnership Implications

- 7.1 This report goes to the heart of the partnership arrangements with Babergh District Council and can only proceed in its current form if Babergh Council also agree to the proposals.

8. Key Information

- 8.1 In December both Babergh and Mid Suffolk Council`s commissioned a joint review of their Constitutions .It was agreed that the first element of that review would be to consider the committee structure of both Councils.

- 8.2 In February member workshops were held which, amongst other things, agreed a set of design principles for the Joint Constitutional Review Group to follow in formulating their proposals. The principles took into account the current financial and policy landscape before the Councils and are set out below:-

- a. Stream-lined and effective committee style decision-making which focuses on the purpose of the Authority, community engagement and on outcomes for the community and creating and implementing a vision for the local area
- b. Joint working between Babergh and Mid Suffolk be adopted as a default position with District Council sovereign decision-making structures where necessary.
- c. All member involvement in policy development at an earlier stage with performance managed informal member working groups as an integral part of the decision making structure, focusing on policy development with a flexible approach to format and form.
- d. Focused committee working centred on decision-making. Taking informed and transparent decisions which are subject to effective challenge and managing risks
- e. Whilst recognising the sovereign nature of each Council and the need for a difference in approach on occasion, Mid Suffolk and Babergh Committee structures should where appropriate seek to mirror each.
- f. Political Group working is recognised as an important and integral part of the decision making structure.
- g. Member support and communication and information systems to be improved to assist in effective member working.
- h. When appropriate Council meetings to trial state of the district debates.
- i. Members and officers working together to achieve a common purpose with clearly defined functions and roles, promoting values for the authority and demonstrating the values of good governance through standards of conduct and behaviour, developing the capacity and capability of members and officers to be effective.

- j. Committee seat numbers to ensure all Babergh council members have a committee seat for every member; Mid Suffolk members were comfortable with fewer seats.

9. Recommended Structure

- 9.1 The proposed draft structure and options are set out at Appendix 1 with the existing structure set out at Appendix 2. The proposed structure is due to be considered by a further series of member workshops to be held in the beginning of March and feedback from those workshops will be provided at the meeting.
- 9.2 Babergh Constitution already allows for the Chairman of Strategy Committee to be designated as leader of the Council and the role description is already contained within the constitution. It is suggested that these provisions be invoked.
- 9.3 It is also suggested that the Strategy Committee be able to bring forward proposals to the AGM for the designation of Lead members and Deputy Leader.

10. Informal Working Groups

- 10.1 Members at both Councils expressed their desire for more informal working arrangements and wished to be directly involved in policy development irrespective as to whether they held a seat on the Executive. In addressing that need informal working groups have been created. They will be key to the structure, these groups will:-
 - a. Enable all members at the earliest opportunity to develop policy before it is recommended to the Strategy Committee;
 - b. Focus on the delivery of the Councils emerging priorities through the transformation programme, as an example working groups to consider the development of the Council's LDF, to establish a joint green forum which works across both Councils to address the environmental impact of the Councils activities etc;
 - c. Be flexible in size, process and timing of meeting to accommodate different subject matters and different member working styles, a tool kit of ways of working will be produced;
 - d. They can be either joint working groups or groups focusing on issues limited to Babergh.
 - e. Whilst there is no requirement for political proportionality there will be design principles which reflect the need for cross party working and on occasion political balance, giving members a wider and more diverse opportunity for members to develop their specific individual interests and having the greater flexibility to tie into.
 - f. The number of groups can expand or decrease depending upon available member and officer resource.

- g. The programme of working groups will be considered at the Joint Member Steering Group with input from Council, political groups and officers. They will be formally set up through the Strategy Committee with clear parameters around terms of reference, timing for delivery and allocation of resources. The relevant lead members for the policy development will act as sponsor for the working group. The recommendations of the Group will then be reported back to the Strategy Committee and on occasion Council;

11. Joint Committees and Sovereign Decision-making

- 11.1 The majority of members at the first member workshop welcomed the idea of more joint working between Babergh and Mid Suffolk and gave the mandate for the development of joint committees. In doing so it was recognised that joint committees would not be appropriate in all cases. In putting together the structure members of the Joint Constitutional Review Group have hoped to affect a balance between the two. It is proposed that certain committees namely the Strategy and Planning Committees will remain as Babergh only committees, in addition where there are joint committees there will be sub committees to address Babergh specific issues, so for instance the Joint Audit and Standards Committee will for instance financial governance issues where-ever possible but the actual statement of accounts for Babergh will be addressed through the Babergh Audit sub- committee.
- 11.2 The proposed joint committees are joint scrutiny committee, joint audit and standards committee and joint appointments committee with sub committees as shown in the structure chart which are district specific to address limited issues that are specific to only one district or which legislation or political sensitivities demands separation.
- 11.3 It is proposed that each of the joint committees be made up of 16 members, 8 members from each Council and politically proportionate. It is also suggested that alternating chairman be used and that there be no casting vote for the chairman. In the rare event that a majority cannot be obtained, the issue will be referred to either the respective Councils or where the issue is minor to the respective sub committees. In the case of joint scrutiny committee this will be addressed through the production of reports to Strategy / Council setting out the alternatives.

12. Scrutiny Committee

- 12.1 Whilst it is recognised that the scrutiny function is not a legal requirement of the of the committee system model the review group were of the view that there was merit in retaining a more focused version of scrutiny. It is proposed that the key purpose of the committee(s) is
 - a. The home of “call in“. Again it was recognised that “call in “is not a legal requirement of the committee system but members of the Review Group felt it would aid the robustness of decision-making and be a benefit in challenging the work of the Strategy Committee;
 - b. Holding Strategy to account;
 - b. To be the home for member Call for action;and

- c. To focus on scrutinising the work of external stakeholders and service providers, as this was considered a benefit that probably would not take place in any other part of the structure and would add value to the Council and community.

12.2 The Group recognised that this was a far more limited role than is currently the case and that it would not wish to clash with or duplicate the role of the working groups. The group would recommend a single joint committee and two sub committees to deal with each council call in function.

13. Joint Audit and Standards Committee

13.1 The recommendation for a Joint Audit and Standards Committee has developed from a desire to provide a strengthened governance assurance mechanism to members as a focused control mechanism in this time of change and increased risk of governance failure .The Standards Committee function is already provided through a joint committee and it is recognised that there are strong synergies between a widened audit function which focuses on the ethical culture in the organisation and the Standards function which essentially seeks to develop high ethical standards for members , thus ensuring a comprehensive and unified approach for both members and officers . It will also enable members to have the benefit of their statutory officers meeting together with members to focus on this particular aspect of their roles. All statutory officers have been consulted on the proposal and welcome the recommendation

14. Development Control Committees

14.1 The review of the development committees did not fall within the ambit of the Constitutional Review Group but was considered separately by the Planning Review Group. Although on first blush the structures for both Councils looks identical to their current structure there are important changes in the detail. Firstly, the Babergh Committee will meet every fortnight, secondly in the Mid Suffolk structure the few major planning applications which fall under its remit will be referred directly to the main Planning Committee (previously known as referrals Committee) without the need for first being considered by the planning sub committee. Whilst the development control mechanisms do not mirror each other they are both set up to address the current backlog of applications in the planning system and there will be a development control meeting at each council every fortnight. The Babergh model is based on the increased use of substitutes. Mid Suffolk members have opted for two sub committees with a greater number of members involved overall and with a Development Committee to ensure consistency and to address the very large applications.

15. Terms of Reference of Committees

15.1 At Appendix 3 are draft terms of reference for the two newly formed joint committees. Members will appreciate that this is an iterative process between the two Councils and work is still on- going following the member workshops. However it was felt that the joint committee terms of reference would be required prior the Special Council meeting in order to progress the Structure at the AGM`s. Other Committee terms of reference can be amended following the AGM. The Joint Constitutional Review Group is due to meet tomorrow to further discuss these terms of reference. it is therefore requested that delegated authority be given to amend these where

necessary. It is proposed that existing committees continue with their current timing and committee numbers be discussed with Group Leaders.

16. Appendices

Title	Location
(1) Proposed Structure Chart	Attached
(2) Existing Structure Chart	Attached
(3) Timing and Size of Committees	Attached

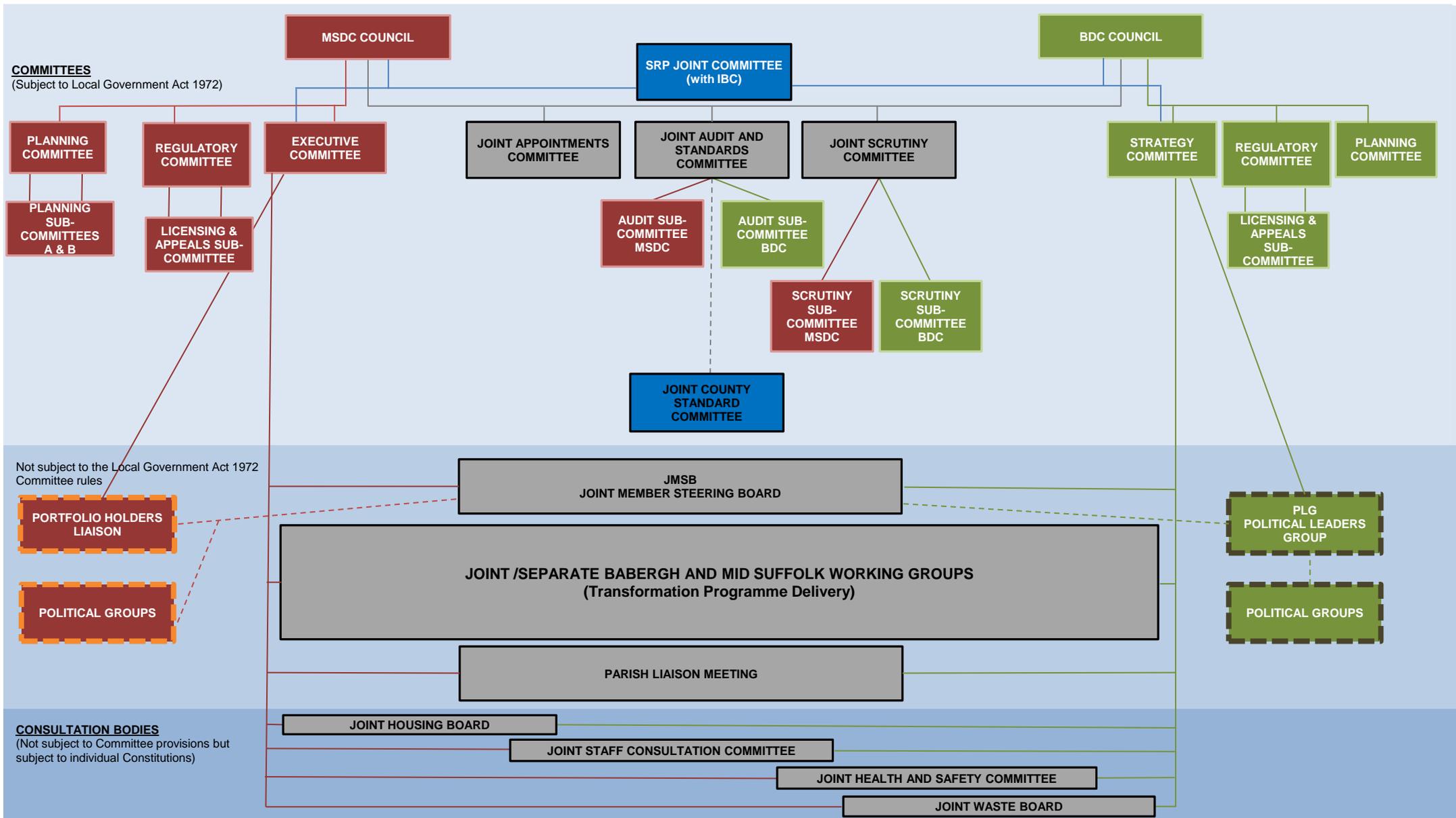
17. Background Documents

17.1 None.

Authorship:
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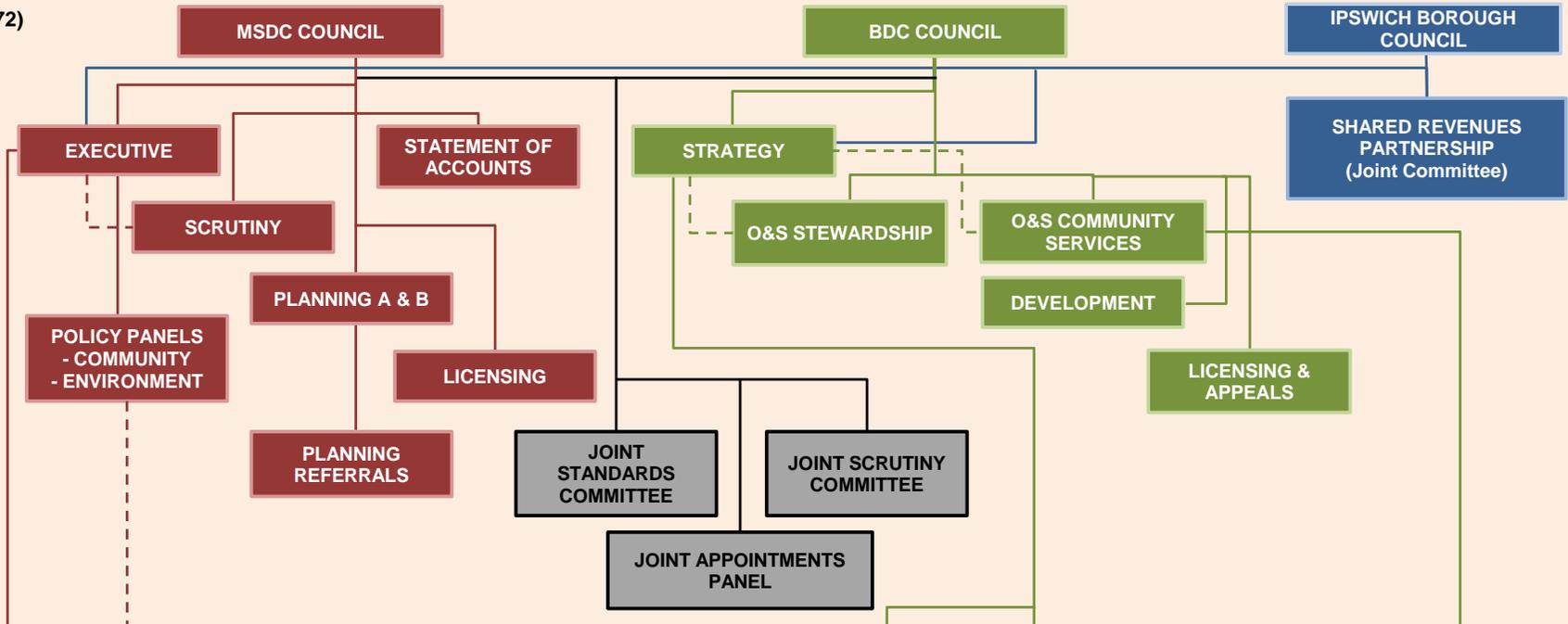
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JOINT BABERGH AND MID SUFFOLK COMMITTEE STRUCTURE (Version 9)



CURRENT STRUCTURE

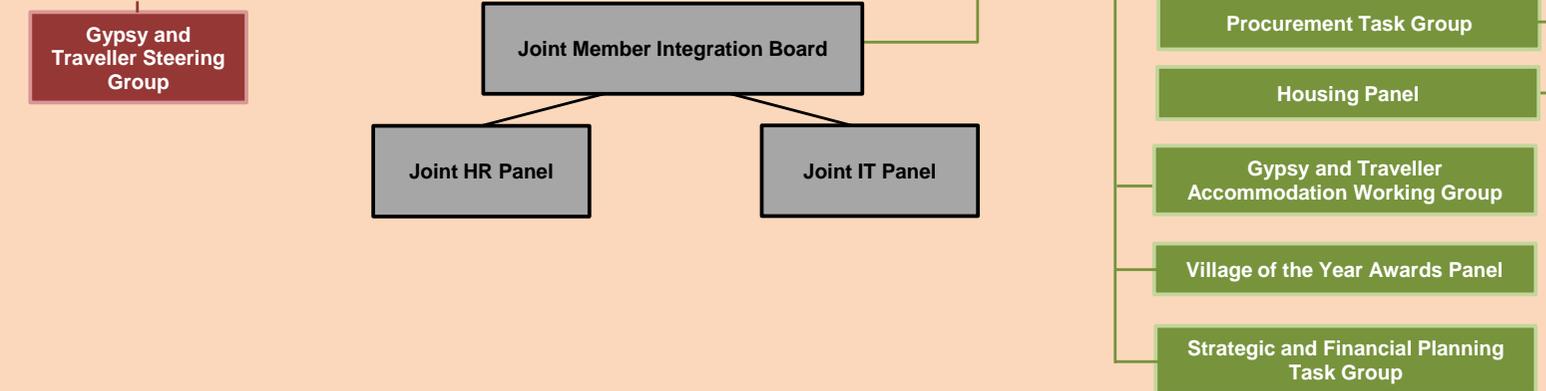
COMMITTEES
(Subject to Local Government Act 1972)



CONSULTATION BODIES
(Not subject to Committee provisions but subject to individual Constitutions)



WORKING GROUPS
(Not subject to Committee provisions)



BABERGH AND MID SUFFOLK JOINT AUDIT AND STANDARDS COMMITTEE

General Role

- 1.1 Babergh and Mid Suffolk District Councils have agreed to integrate the staff and services across the two Councils.
- 1.2 The Babergh – Mid Suffolk integration programme seeks to deliver benefits and savings arising from economies of scale, sharing of assets and resources in teams, sharing of senior managers, pooling of scarce skills and expertise, increased capacity and resilience to deliver services to the community, and reductions in the cost of democracy.
- 1.3 As a consequence of these actions there will be a significant amount of similarity in how the two Councils operate at a strategic level. In order to ensure a consistent approach, avoid duplication of resources and improve joint working between both Councils the two Councils have agreed to establish a joint committee known as the Babergh and Mid Suffolk Joint Audit and Standards Committee. This Committee will only seek to address matters which are being progressed across both Councils. Issues that are pertinent only to a single Council area will remain the preserve of that Mid Suffolk Audit Committee.

Neither the Chairman of the Councils nor the Leader of the Council/Chairman of Strategy Committee shall be entitled to be appointed as a Member of the Joint Audit and Standards Committee

Role and Function

The Joint Audit and Standards Committee will have the following roles and functions:

- (i) Approve (but not direct) internal audit's strategy, plan and performance
- (ii) Review summary internal audit reports and the main issues arising and seek assurance that the action has been taken where necessary.
- (iii) Consider the reports of External Audit and inspection agencies excluding reports in the Statement of Account.
- (iv) Consider the effectiveness of the authority's risk management arrangements, the control environment and associated anti fraud and anti corruption arrangements. Seek assurances that action is being taken on risk related issues identified by auditors and inspectors.
- (v) Be satisfied that the authority's Statement of Internal Control properly reflects the risk environment and any actions taken to improve it.
- (vi) Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies and that the value of the audit process is actively promoted.

- (vii) 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.
- (viii) To promote a culture of openness, accountability and probity in order to ensure the highest standards of conduct.
- (ix) To promote the values of putting people first, valuing public service and creating a norm of the highest standards of personal conduct.
- (x) To oversee and manage programmes of guidance, advice and training on ethics, standards and probity for Councillors.
- (xi) 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.
- (xii) 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.
- (xiii) 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.
- (xiv) 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.
- (xv) To receive reports from the Monitoring Officer and any independent person appointed by the Council pursuant to the Localism Act 2011.
- (xvi) To consider and grant exemptions for politically restricted posts.
- (xvii) To determine appropriate action on matters referred to the Joint Standards Committee by the Monitoring Officer, Council or its Committees. To receive, consider and make decisions on reports received from the Strategy /Executive or Scrutiny Committees
- (xviii) 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.
- (xix) 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.
- (xx) 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).

- (xxi) 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.
- (xxii) 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.

MID SUFFOLK AUDIT COMMITTEE

- (1) This Committee will seek to address matters which are pertinent only to Mid Suffolk District Council area and referred to it by either the Council , Executive Committee , Joint Audit and Standards Committee , Section 151 officer , Monitoring Officer or Head of Paid Service.
- (2) Approve the draft Statement of Accounts
- (3) Receive the external Auditor's report on the Statement of Accounts
- (4) Approve the final Statement of Accounts
- (5) There are two regular meetings each year as follows:
 - on or before 30 June to approve the draft Statement of Accounts
 - on or shortly before 30 September to receive the External Auditor's report and to approve the final Statement of Accounts
- (6) There are eight Members (quorum 3) and they must not be Executive Committee Members.

MID SUFFOLK SCRUTINY COMMITTEE

Scrutiny Committee

6.01 General role

Within their terms of reference, the Scrutiny Committee will:

- i) consider any items subject to “call in”, for reconsideration, decisions made but not yet implemented by the Executive Committee or Officer on the Executive Committee's behalf.
- ii) where the matter impacts solely upon Mid Suffolk area review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- iii) make reports and/or recommendations to the full Council and/or the Executive Committee or any Panel in connection with the discharge of any functions; (see para - Overview and Scrutiny Procedure Rules (P) - report from Scrutiny Committee for special arrangements in exceptional cases)
- iv) make reports or recommendations to the Authority or the Executive Committee with respect to matters affecting the area or its inhabitants; and

6.02 Frequency of meetings and operational arrangements. As meetings of this committee are designed to address “call ins “ and issues which the Joint Committee acknowledge as inappropriate to address jointly meetings will be organised on an as and when basis. The Committee may appoint in its own right a task and finish panel to consider and decide upon issues on its own behalf. This can be either from its own membership or other members with the necessary expertise. Panels will not deal with call in items.

6.03 Specific functions (a) Performance monitoring and review. Where the matter relates solely to the Mid Suffolk District Council area the Scrutiny Committee may:

- i) assist the Council and the Executive Committee in the monitoring and analysis of the performance of the Council and its functions (this to include monitoring of its financial systems and procedures) including:
- ii) question Members of the Executive Committee and Officers about their views on issues and proposals affecting the area; and
- iii) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- iv) conduct best value reviews under S5 of the Local Government Act 1999.

(d) **Finance.** The Scrutiny Committee may exercise overall responsibility for the finances made available to it.

- (e) **Annual report.** The Mid Suffolk Scrutiny Committee must report annually to full Council on its workings.
 - (f) **Officers.** The Scrutiny Committee may exercise overall responsibility for the work programme of the Officers employed to support its work.
 - (g) **Task and Finish Panels.** To number 3, 5 or 7 members - cross party on terms set out in para ??? (Regulatory Pool) page ?/. When established a clear remit should be set with defined outcomes, time span and reporting requirements.
- 6.04 **Proceedings of the Scrutiny Committee** The Scrutiny Committee will conduct its proceedings in accordance with the Scrutiny Procedure Rules set out in part 4 of this Constitution.

BABERGH AND MID SUFFOLK JOINT SCRUTINY COMMITTEE

6.01 General Role

- 1.1 Babergh and Mid Suffolk District Councils have agreed to integrate the staff and services across the two Councils.
- 1.2 The Babergh – Mid Suffolk integration programme seeks to deliver benefits and savings arising from economies of scale, sharing of assets and resources in teams, sharing of senior managers, pooling of scarce skills and expertise, increased capacity and resilience to deliver services to the community, and reductions in the cost of democracy.
- 1.3 As a consequence of these actions there will be a significant amount of similarity in how the two Councils operate at a strategic level. In order to ensure a consistent approach, avoid duplication of resources and improve joint working between both Councils the Joint Scrutiny Committee has been adopted. This Committee will only seek to address matters which are being progressed across both Councils. Issues that are pertinent only to a single Council area will remain the preserve of that Council's Scrutiny committee.
- 1.4. Subject to paragraph 1.3 The Joint Scrutiny Committee will :-
 - i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Councils' functions;
 - ii) make reports and/or recommendations to the full Councils and/or the Executive and Strategy Committee in connection with the discharge of any functions;)
 - iii) make reports or recommendations to the Councils or the Executive and Strategy Committee with respect to matters affecting the area or its inhabitants; and

6.02 Frequency of meetings and operational arrangements

There should be scheduled six weekly meetings of the Joint Scrutiny Committee. In addition extraordinary meetings may be called from time to time as and when appropriate.

The Committee may appoint in its own right a task and finish panel to consider and decide upon issues on its own behalf. This can be either from its own membership or other members with the necessary expertise. Panels will not deal with call in items.

6.03 Specific functions (a) Performance monitoring and review. The Scrutiny Committee may:

- i) question Members of the Executive and Strategy Committee and Officers about their views on issues and proposals affecting the area; and

- iii) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
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