

## BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

<b>From: Monitoring Officer</b>	<b>Report Number: M191</b>
<b>To: Full Council</b>	<b>Date of meeting: 11 April 2013 (MSDC) 9 April 2013 (BDC)</b>

### CREATION OF A SUFFOLK JOINT STANDARDS BOARD

#### 1. Purpose of Report

- 1.1 To establish a 'Suffolk Joint Standards Board' between Babergh, Mid Suffolk and Suffolk County Council to determine final stage complaints under the Suffolk Local Code of Conduct.

#### 2. Recommendations

- 2.1 That, subject to the agreement of all of the Councils concerned, a joint committee be established between Babergh and Mid Suffolk District Councils and Suffolk County Council referred to as the 'Suffolk Joint Standards Board' to take effect from 24 May 2013.
- 2.2 That the Articles and Terms of Reference at Appendix 1 be approved and that the Monitoring Officer be authorised to make minor amendments as may from time to time be necessary in consultation with the Monitoring Officer of Suffolk County Council.
- 2.3 That the 'Suffolk Joint Standards Board' be delegated authority to undertake the functions set out within the terms of reference.
- 2.4 That political balance rules do not apply to the Council's appointments to the joint committee.\*

\* *Recommendation 2.4 requires all Members voting to be in support*

\*\* *The Council's appointments will be made at Annual Council*

#### 3. Financial Implications

- 3.1 The creation of a Suffolk Joint Standards Board does not have any financial implications to the councils. There would be no co-opted members and so there are no implications regarding additional allowances.
- 3.2 There are no additional staff resource implications.

#### 4. Risk Management

- 4.1 Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Terms cannot be agreed between the Councils	Low	Marginal	The MO's have discussed terms and sought input from Members

## **5. Consultations**

- 5.1 The Leader/Portfolio Holders Group and Political Leaders Group have been consulted on the proposals.
- 5.2 The Joint Standards Committee has been apprised of developments and whilst the Committee would have preferred that the determination of more serious complaints remain with the Committee, it commends the terms of reference to Full Council. The Committee recommends that political balance rules do not apply to the Suffolk Joint Standards Board.

## **6. Equality Analysis**

- 6.1 Not relevant to this report

## **7. Shared Service / Partnership Implications**

- 7.1 The arrangements would involve 3 Councils working together with scope for other authorities to join at a later stage.

## **8. Key Information**

- 8.1 Since 1 July 2012 the majority of Code of Conduct complaints against parish/town and district councillors are dealt with by the Monitoring Officer in consultation with an 'independent person' appointed by the Councils under the Localism Act 2011. It is only the more serious complaints that are now formally investigated. If following an investigation, the 'independent person' considers that there has been a breach of the Code then the complaint must be decided by a committee. The Full Councils of Babergh and Mid Suffolk resolved on 19 and 21 June 2012, respectively, to support the principle of a 'Suffolk Standards Board' being established to determine these more serious complaints. The Joint Standards Committee was delegated authority to deal with any such complaints in the interim. Since that time it has determined two complaints against one parish councillor that have fallen within this category.
- 8.2 Discussions have progressed to a stage where a 'Suffolk Joint Standards Board' can now be established although it has emerged that this would only comprise Suffolk County Council, Babergh and Mid Suffolk. The other Suffolk authorities have decided not to participate at this stage, although the option would remain open for them to do so.
- 8.3 Whilst it had originally been anticipated that more of the Suffolk authorities would participate in a Suffolk Joint Standards Board, its creation would still be worthwhile to ensure that any serious complaints are considered by councillors who are independent of the Council concerned. The intention would be for the Suffolk Joint Standards Board to establish sub-committees of 3 members who are not members of the Council that received the complaint.
- 8.4 The role of the Suffolk Joint Standards Board would be to deal with what is expected to be very occasional serious complaints and with the option for a Council to refer other matters to it e.g. provision of training of councillors, if a Council so chooses. The Joint Standards Committee would continue to undertake the wider function of promoting and maintaining the ethical framework within the councils.

- 8.5 The key terms of a 'Suffolk Standards Board' are proposed as follows:-
- (1) the 'Board' is set up as a joint committee between the 3 Councils.
  - (2) membership comprises 9 elected members, 3 from each Council.
  - (3) membership excludes the Chairman of each Council and any member of the Cabinet/Executive/Strategy Committee.
  - (4) complaints will be considered by sub-committees of 3 members drawn from other Councils to that which has received the complaint.
  - (5) the Chairman for a sub-committee is elected at each meeting
- 8.6 It is recommended that the Suffolk Joint Standards Board comes into operation after the County Council elections in May 2013 and following its Annual Council meeting later that month. In the meantime, the determination of complaints that have been investigated and where there is a finding of breach of the Code will be dealt with under new joint arrangements.
- 8.7 Where a committee is constituted other than by political balance, then Section 17 of the Local Government and Housing Act 1989 requires that the Council should agree the proposals "without any member of the authority voting against them." Therefore, for the political balance rules to be set aside all Members present and voting must be in favour.
- 8.8 Appointments to the Board would be made at Annual Council and nominations are not required at this stage.

## **9. Appendices**

- Appendix 1 – Terms of Reference for the 'Suffolk Standards Board'.

## **10. Background Papers**

- Reports to the Leader/Portfolio Holders Group and Political Leaders Group.

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## Articles of the Constitution

### **The Babergh, Mid Suffolk and Suffolk County Joint Standards Board**

#### **Joint Standards Board**

Babergh, Mid Suffolk and Suffolk County Council will together establish a committee known as the Suffolk Joint Standards Board. Membership of the Board shall exclude the Chairman of any Council, any Cabinet, Executive or Strategy Committee member

#### **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 do not apply.]*

- (a) **Membership.** The Joint Standards Board will be composed of nine Councillors (three elected members from each Council).
- (b) **Chairing the Board.** The Joint Standards Board or any Sub Committee will nominate the Chairman at each meeting.
- (c) The quorum is three (being one member from each Council) for a full meeting of the Joint Standards Board.
- (d) The quorum for Sub-Committee meetings of the Joint Standards Board is three members. Sub-Committee meetings will be arranged by the Monitoring Officer from the Council receiving the original complaint and will take place as and when required. The members will be drawn from the other councils.

#### **Role and Function**

The Joint Standards Board will have the following roles and functions:

- (a) To receive reports from Monitoring Officers when complaints about the conduct of councillors have been investigated and found that a breach of the Code of Conduct has occurred, and to consider the appropriate sanction (if any) recommended by an Independent Person (as defined within the Localism Act 2011) subject to statute, regulations and Government guidance.
- (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 receive reports from a Monitoring Officer and any independent person appointed by the Council pursuant to the Localism Act 2011.

- (e) To determine appropriate action on matters referred to the Joint Standards Board by a Monitoring Officer, Council or Committee.
- (f) To support a Monitoring Officer in his or her statutory role and the issuing of guidance on his or her role from time to time in relation to the consideration and/or handling of complaints.
- (g) To manage any resources assigned to the Committee subject to any framework set by any Council or Committee.
- (h) To be responsible for securing equality in relation to the functions of the Joint Standards Board.
- (i) To establish and delegate to Sub-Committees, as appropriate, and manage that Sub-Committee.
- (j) To receive, consider and make decisions on reports received from any Sub-Committees and to make recommendations to any Council in relation to matters reserved to the Council by statute or Procedure Rules.
- (k) If requested by any participating Council to do so, 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.
- (l) If requested by any participating Council to do so 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.
- (m) If requested by any participating Council to do so, to review and make recommendations on Councillors' training to promote the ethical framework.

### **Additional roles of the Joint Standards Board**

The Councils may assess the scope for further work for the Joint Standards Board as events develop.

### **Terms of Reference**

The Suffolk Joint Standards Board will have the Terms of Reference set out in this Constitution.

## Terms of Reference

### **The Suffolk Joint Standards Board**

#### **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
- (c) Suffolk County Council

“the Joint Standards Board” means the Suffolk Joint Standards Board

“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

#### **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 Suffolk Joint Standards Board 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 Board**

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

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

- 4.1 The Joint Standards Board shall consist of
- a) nine members of the Councils, appointed by those Councils in accordance with paragraph 4.2;
- 4.2 Subject to paragraph 4.3, the Councils shall each appoint three members of their authorities to be members of the Joint Standards Board.
- 4.3. Membership of the Board shall exclude the Chairman of any Council and any Cabinet or Strategy Committee member
- 4.4 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 member of the Joint Standards Board 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) 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 Board.
- d) He or she ceases to be eligible for appointment to the Joint Standards Board in the capacity in which he or she was appointed.
- e) The functions of the Joint Standards Board are allocated to another committee.
- f) The Councils determine to reduce the size of the Joint Standards Board and notice is given to the Member to terminate his or her membership of the Joint Standards Board.
- g) The Council which appointed him or her ceases to participate in the Joint Standards Board.
- h) A resolution of the Councils not to continue with a Joint Standards Board.

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

## **6. Sub Committees**

6.1 The Joint Standards Board will 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 Board.

6.3 The quorum for Sub Committee meetings is three members. Where a Sub Committee is established to determine a complaint against a councillor then Members of the Sub Committee will be drawn from other councils to that which has received the complaint.

6.4 If the Joint Standards Board 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 Board 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 Board (and its Sub Committees) will be set by the Board. 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 Board 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 Board.
- 8.2 The Joint Standards Board will be responsible for approving changes to the protocol.

## **9. Support**

- 9.1 The Joint Standards Board will meet at the offices of the Council that received the complaint 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 Board. 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 Board to be given and received, save in so far as the Monitoring Officer agrees to undertake this activity.

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

- 10.1 The expenses of the Joint Standards Board and of the discharge of functions relating to matters dealt with by the Joint Standards Board will be met by the Council receiving the complaint.

## **11. Withdrawal from the Joint Standards Board**

- 11.1 A Council may cease to participate in the Joint Standards Board by resolution to that effect 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.