

Constitution

1) Definitions

In this Constitution:

“the Act” means the Local Government Act 2000

“the Constituent Authorities” means

(a) Essex County Council

(b) Essex Fire Authority

“Executive”, “Executive Member”, “Elected Mayor” and “Executive Leader” have the same meaning as in the Act

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

“the Joint Standards Committee” means the Joint Standards Committee of the Counties Authorities.

“Monitoring Officers” means the officers designated by the Constituent Authorities 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 Constituent Authorities, in exercise of their powers under the Regulations, have each determined to establish a joint standards committee, to be known as the Essex County Council and Essex Fire Authority Joint Standards Committee to exercise those functions conferred by or under Part 3 of the

Act or Part 1 of the Local Government and Housing Act 1989 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 the Constituent Authorities
 - 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 Appendix 1.
 - 3.2) Any Standards Committee established by any of the individual Constituent Authorities may not exercise any function set out in Appendix 1.
- 4) Membership of the Joint Standards Committee
- 4.1) The Joint Standards Committee shall consist of:
 - a) [*insert number*] members of the Constituent Authorities, appointed by those authorities in accordance with paragraph 4.2;
 - b) [*insert number which must be at least 25% of the total membership of the committee*] Independent Members, appointed in accordance with paragraph 4.5.
 - 4.2) Subject to paragraphs 4.3 and 4.4, the following Constituent Authorities shall appoint the following numbers of members of those authorities to be members of the Joint Standards Committee:
 - a) [*Name of Constituent Authority*] : [*number*] members
 - b) [*etc*]
 - 4.3) Appointment of Executive Members
 - a) No more than one of the members of the Constituent Authorities appointed under paragraph 4.2 shall be a member of the Executive of any of the Constituent Authorities.
 - b) If an Executive Member has previously been appointed to and is still a member of the Joint

Standards Committee then no further appointment of an Executive Member will be valid.

- c) Otherwise, if the Constituent Authorities seek to appoint more than one Executive Member then only one appointment will be valid and the other Constituent Authorities will be required to make a new appointment. The valid appointment shall be agreed between the Constituent Authorities or in default of agreement shall be made annually in turn by each of the Constituent Authorities in the order set out in paragraph 4.2 starting with the Constituent Authority named in paragraph 4.2 (a).

4.4) None of the members of the Constituent Authorities appointed under paragraph 4.2 shall be the Executive Leader of either of the Constituent Authorities.

4.5) The following Constituent Authorities shall appoint the following numbers of Independent Members (in accordance with the provisions of the Standards Committee Regulations) to be members of the Joint Standards Committee:

a) [*Name of Constituent Authority*] : [*number*] members

b) [*etc*]

4.6) 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 for membership of the Joint Standards Committee.

5) Tenure of office and casual vacancies

5.1) A 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 Constituent Authority that appointed him or her;
- b) He or she being an independent member of a constituent authority has held office for a period of [*insert period*] years.]
- c) He or she is disqualified for 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 Constituent Authority which appointed him or her ceases to participate in the Joint Standards Committee.

5.2) A casual vacancy shall be filled as soon as possible by the Constituent Authority 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 Constituent Authority 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 meetings and proceedings of the Joint Standards Committee shall be conducted in accordance with the rules set out in Appendix 2.
- 7.2) The Joint Standards Committee will adopt standing orders or rules of procedure for the conduct of its meetings. The standing orders or rules of procedure must be consistent with the requirements of the Act, the Standards Committee Regulations and the rules set out in Appendix 2. They may provide for different procedures to be followed when the Joint Standards Committee or a Sub Committee is exercising different functions.

8) Monitoring Officers

8.1) The Monitoring Officers 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 3. The Monitoring Officers will inform the Joint Standards Committee and the Constituent Authorities of any changes to the protocol.

9) Support

9.1) The Joint Standards Committee will appoint one of the Constituent Authorities to provide accommodation and professional, technical, administrative and clerical support for its meetings.

9.2) The Joint Standards Committee will keep the appointment under review and may from time to time make a new appointment having regard to the geographical area that it covers and to the interests of economy, efficiency and effectiveness.

For the period stated in column 1 of the following table, the Constituent Authority identified in Column 2 shall be appointed to provide accommodation and professional, technical, administrative and clerical support for its meetings.

Table	
Column 1	Column 2
Period	Constituent Authority
10 years	Essex County Council

9.3) The Proper Officer appointed by the Constituent Authority 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 one of the Monitoring Officers 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 by the Constituent Authority providing support and by any

Constituent Authority whose Monitoring Officer has dealt with or exercised his or her functions in relation to such matters.

- 10.2) The other Constituent Authorities will make payments to the Constituent Authority that has incurred expenses under paragraph 10.1, to defray them in such proportions as the Constituent Authorities shall all agree or in the case of disagreement as shall be determined by a single arbitrator agreed on by the Constituent Authorities, or, in default of agreement, appointed by the Secretary of State for Communities and Local Government.
- 10.3) In determining the allocation of expenses the Constituent Authorities or any arbitrator appointed under paragraph 11.2 will have regard to the principles set out in Appendix 4.
- 10.4) The Constituent Authority for the time being providing support will report to the Joint Standards Committee at least annually on such expenses, on their allocation between the Constituent Authorities and on the financial provision made by the Constituent Authorities to cover present and future expenses. The Joint Standards Committee may notify the Constituent Authorities if it considers that the financial provision is or is likely to be inadequate.
- 11) Allowances
 - 11.1) The Constituent Authorities will review the Schemes of Allowances for their members, will consult each other for the purposes of the review, and will seek (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):
 - a) To reach agreement as to which members of the Joint Standards Committee should receive allowances, the level of allowances, and whether related attendance or activity should affect, either directly or by reason of any calculations that are performed, the entitlement to allowances;
 - b) To ensure that no member of the Joint Standards Committee is paid more than one allowance, or more than one enhanced allowance, on account of such attendance or activities;
 - c) To ensure that the agreement reached is reflected in the Constituent Authorities' Schemes of Allowances.
 - 11.2) An agreement reached under paragraph 11.1 shall not bind the Constituent Authorities 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 Constituent Authority 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 the Constituent Authority, and communicated in writing to the Proper Officer the time being providing support to the Joint Standards Committee at least six months before the date on which it is to take effect.

APPENDIX 1

Functions to be exercised by the Joint Standards Committee

The Joint Standards Committee may exercise all the functions of a standards committee of a Constituent Authority conferred under Part 3 of the Act and Part 1 of the Local Government and Housing Act 1989.

The Constituent Authorities have decided that it is appropriate that the Joint Standards Committee should exercise the following additional functions:

- 1) Sending returns to the Standards Board for England under section 66B of the Act in relation to the functions of the Joint Standards Committee.
- 2) Providing information to the Standards Board for England under section 66C of the Act in relation to the functions of the Joint Standards Committee.
- 3) Considering recommendations from a case tribunal under section 80 of the Act that relate to the functions of the Joint Standards Committee

APPENDIX 2

Rules for the conduct of meetings and proceedings

1) Meetings

- 1.1) The Joint Standards Committee shall in every year hold an annual meeting.
- 1.2) The first Meeting held after the 31 May in any year shall be the annual meeting.
- 1.3) The Joint Standards Committee may hold such other meetings as they may determine.
- 1.4) The provisions of the Local Government Act 1972 and the Standards Committee Regulations (and transitionally the Relevant Authorities (Standards Committee) Regulations 2001 and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003), relating to giving summons to attend the meeting, giving notice of time and place of the meeting, admission of the public and press to meetings, access to agendas and reports preparation of and access to minutes of the meeting (or a written summary), access to background papers and the timing and conduct of hearings, that apply to a standards committee of a Relevant Authority, shall apply to the Joint Standards Committee.

2) Appointment of chair and vice-chair

- 2.1)** Subject to paragraph 2.4, the Joint Standards Committee shall at their annual meeting appoint a chair and a vice-chair from among the independent members of the Joint Standards Committee.
- 2.2)** The chair and vice-chair shall, unless they resign their office or cease to be independent members of the Joint Standards Committee, continue in office until their successors become entitled to act.
- 2.3)** In the case of an equality of votes in respect of the appointment of a chair or the appointment of a vice-chair, the person presiding at the meeting shall give a casting vote in addition to any other vote he or she may have.
- 2.4)** The chair and vice-chair must be independent members.
- 2.5)** Subject to paragraph 2.4, if a casual vacancy occurs in the office of chair or vice-chair of the Joint Standards Committee the vacancy shall be filled by the appointment by the Joint Standards Committee of one of their members at the next meeting and the person so appointed shall hold office until the next annual meeting.

3) Conduct of meetings

- 3.1)** At a meeting of the Joint Standards Committee the chair if present shall preside.
- 3.2)** If the chair is absent from a meeting of the Joint Standards Committee the vice-chair shall preside.
- 3.3)** If both the chair and vice-chair are absent, another independent member of the Joint Standards Committee, chosen by the members of the Joint Standards Committee present at the meeting, shall preside.

4) Quorum

- 4.1)** No business shall be transacted at a meeting of the Joint Standards Committee unless at least three members are present.
- 4.2)** Where a meeting is convened to exercise functions specified in sections 57A or 57B of the Act or in regulations 17 to 20 of the Standards Committee Regulations at least one member of one of the Constituent Authorities must be present:

5) Proceedings of meetings

- 5.1)** All questions coming or arising before a meeting of the Joint Standards Committee shall be decided by a majority of the members of the joint committee present and voting at that meeting.
- 5.2)** The minutes of the proceedings of each meeting of the Joint Standards Committee shall be drawn up and shall be signed at the next ensuing meeting of the Joint Standards Committee by the person presiding at that next meeting.

5.3) A copy of the minutes of the proceedings of each meeting of the Joint Standards Committee shall be sent to the proper officer of each Constituent Authority within 14 days after the date of the meeting at which they were signed.

5.4) The names of the members present at each meeting of the Joint Standards Committee shall be recorded in the minutes of the proceedings of that meeting.

6) Sub Committees

6.1) Paragraphs 1 to 5 apply to meetings of Sub Committees of the Joint Standards Committee with the following modifications.

6.2) References to the Joint Standards Committee should be read as references to the Sub Committee.

6.3) Sub Committees will not hold an annual meeting.

6.4) The chair and vice chair of the Sub Committee may be appointed by the Joint Standards Committee when it appoints the Sub Committee or at any time thereafter but if it does not do so then the Sub Committee will make the appointments at its first meeting.

6.5) The quorum for a Sub Committee meeting will be determined by the Joint Standards Committee when it appoints the Sub Committee but shall not be less than three.

6.6) For the avoidance of doubt, by virtue of Regulation 8 (5) (a) of the Standards Committee Regulations the provisions of Part 5 A of the Local Government Act 1972 do not apply to a Sub Committee considering an allegation received under section 57A (1) of the Act or reviewing a decision under section 57B of the Act, and the provisions of Regulation 8 (5) (b) and (c) do apply.

APPENDIX 3

Protocol for the exercise of Monitoring Officer functions

- 1) This protocol has been agreed by the Monitoring Officers of the Constituent Authorities as a way of defining their relationship with the Joint Standards Committee and describing how they will exercise their statutory functions.
- 2) The objective is to ensure that the Constituent Authorities, the Joint Standards Committee, any other Standards Committee appointed by the Constituent Authorities, and the Monitoring Officers all:
 - 1) exercise their functions as effectively, efficiently and economically as possible
 - 2) demonstrate a strong ethical framework and structure within the authorities

- 3) demonstrate innovation and best practice, strong outcomes for the community (including through partnership working), performance well above minimum accepted levels, and excellent value for money.
- 3) The Monitoring Officers necessarily retain personal responsibility for their statutory functions under sections 5 and 5A of the Local Government and Housing Act 1989 and Part 3 of the Local Government Act 2000. They may arrange for their functions under sections 5 or 5A to be performed by a member of their staff, nominated as their deputy for the purposes of those sections, but only if they are unable to act owing to absence or illness. It appears that such nomination is also effective for the purposes of Part 3, and therefore in these protocols "Monitoring Officer" includes a deputy acting in those circumstances.
- 4) Under section 82A of the Local Government Act 2000 the Monitoring Officer may delegate some, but not all, Part 3 functions ("the Delegable Functions") to a person whom he or she has nominated. The criterion is that the Monitoring Officer considers that in a particular case he or she ought not to perform those functions.
- 5) The Delegable Functions are:
 - 1) Receiving a reference from a Standards Committee under section 57A of the Act and a direction to take steps other than an investigation, dealing with it and reporting further to the Standards Committee.
 - 2) Receiving a reference from a Standards Committee under section 57A of the Act and dealing with it by conducting an investigation, making a finding and reporting to the Standards Committee.
 - 3) Receiving a reference from an ESO under section 60 (2) or (3) of the Act and a direction to take steps other than an investigation, dealing with it and reporting further to the ESO.
 - 4) Receiving a reference from an ESO under section 60 (2) or (3) of the Act and dealing with it by conducting an investigation, making a finding and reporting to the Standards Committee.
 - 5) Receiving a reference from an ESO under section 64 (2) or (4) of the Act following an investigation by the ESO, sending a copy of the ESO's report to the subject member and referring the report to the Standards Committee.
- 6) The other functions under Part 3 cannot be delegated to a nominated person (the "Non-delegable Functions"). These include:
 - 1) Receiving a reference from an ESO following a finding of "no failure to comply" or "no action" and deciding whether to send it to any member or officer of the authority.
 - 2) Receiving a copy of an ESO's interim report and deciding whether to send it to the Standards Committee and/or any member or officer of the authority.

- 3) Receiving notice of a decision of an interim case tribunal.
- 4) Maintaining the register of interests.
- 7) The Monitoring Officer also has “Nonstatutory Functions”: activities that are incidental to the specific statutory duties and help promote good standards of conduct, including:
 - 1) Giving general advice to members and officers of the authority.
 - 2) Ensuring that the authority complies with its responsibilities under Part 3 of the Act.
- 8) The Monitoring Officer also has “Standards Committee Functions”: activities to assist the Standards Committee in the exercise of its functions, including;
 - 1) Advising the Standards Committee on the exercise of its general and specific functions under section 54 of the Act (promoting and maintaining high standards of conduct, assisting members to observe the Code of Conduct, advising on the Code, monitoring the operation of the Code and advising and training members on it).
 - 2) Advising the Standards Committee on the exercise of its specific functions under the Act.
 - 3) Attending and advising at meetings of the Standards Committee or a Sub Committee:
 - i) Assessing a written allegation
 - ii) Reviewing the assessment of a written allegation
 - iii) Considering reports from Monitoring Officer following (a) and ESO investigation (b) a MO investigation (c) other action by the MO
 - iv) Conducting a hearing
 - v) Considering requests for dispensations
 - vi) Exercising other functions.
- 9) The Monitoring Officers have agreed that these functions will be allocated in the following way:
 - 1) They will each exercise the Non-delegable and Nonstatutory functions relating to their authority.
 - 2) They will consider in each case whether or not they ought to perform the Delegable Functions personally, and if they decide that they will not: *joint procure external assistance*.
 - 3) In so far as the Standards Committee functions relate to the Joint Standards Committee then they will be discharged by the Monitoring Officer for Essex County Council.
- 10) The Monitoring Officers will cooperate to achieve the objectives of this protocol. They recognise that the operation of this protocol will need to

be amended and refined and will keep it under review. Any changes will be reported to the Joint Standards Committee and the Constituent Authorities.

APPENDIX 4

Allocation of expenses

The Constituent Authorities will have regard to the following principles in determining the allocation of expenses:

- Any expenses directly attributable to:
 - an investigation or other action taken following a reference to a Monitoring Officer
 - consideration of a report by an ESO or a Monitoring Officer following an investigation or other action
 - any hearing
 - any appealwill be allocated to the Constituent Authority of which the subject member or co-opted member is a member, or which is responsible for the subject parish council member or co-opted member.
- Expenses directly attributable to the assessment or review of assessment of written allegations will be allocated pro rata to the number of written allegations received against members or co-opted members of each Constituent Authority (or for which the Constituent Authority is responsible).
- Expenses relating to allowances paid to members of the Joint Standards Committee will be allocated to the Constituent Authority which appointed the member to whom the allowance was paid].