

**ARUN DISTRICT COUNCIL
REPORT TO RESIDENTIAL AND WELLBEING SERVICES
COMMITTEE
ON 3 JUNE 2021**

REPORT

SUBJECT Terms of Reference of Residential and Wellbeing Services Committee, Matters Reserved and Delegation to Officers
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DATE: 3 June 2021

EXTN: 37432

COMMITTEE: Residential and Wellbeing Services Committee
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EXECUTIVE SUMMARY:

This report asks Residential and Wellbeing Services Committee to note its terms of reference as given by Full Council, to make any suggestions to Constitution Working Party for clarifying these terms of reference and to make delegations to Officers under matters reserved.

RECOMMENDATIONS: That Committee

1. Notes the general terms of reference for committees in Part 3 paragraph 3 of the Constitution and further notes the specific terms of reference of this Residential and Wellbeing Services Committee as established by Full Council on 19 May 2021 as set out in part 1 and Part 2 of Appendix 1 (attached)
2. Make suggestion to Full Council through the constitution Working Party for clarifications of these terms of reference
3. Note the schedule of Residential and Wellbeing Services Committee meetings set out in the Calendar of meetings attached
4. Agree the matters reserved scheme whereby matters not reserved by committee to itself are delegated to Officers by default as set out in Appendix 2 (attached)

Background

1.This is the first meeting of the committee under the new Committee System and it is appropriate that this Committee considers its terms of reference and where necessary seek clarification of these terms of reference from Full Council by way of a co-ordinated report from the Constitution Working Party which is charged with reviewing the constitution and coordinating suggestions from other Committees.

2.Section 101 of the Local Government Act 1972 allows full Council to arrange for the discharge of its functions by a committee or by an officer. Part 3 of the Constitution sets out the responsibility for functions and paragraph 3 of part 3 the Constitution sets out the

general terms of reference of all committees. These provisions allow this committee to reserve matters to itself and to delegate the remaining functions to officers (Part 3 paragraph 3.1.5)

3. Arranging for the discharge of specific functions by officers is by a process known as “delegation by exception” or “matters reserved”.

4. This means Committee can reserve matters to itself that can only be discharged by the Committee. Matters not reserved are then delegated *by default* to Officers.

5. In accordance with Part 4 and section 2 of the Constitution the matters not reserved are *by default* delegated the Chief Executive, Directors and Group Heads who have the power to take all lawful action consistent with overall Council policy to deliver agreed strategy, plans and policy, and to comply with and undertake all statutory obligations, duties, functions and powers within their area of responsibility and within approved budget.

6. In accordance with Part 4 and section 2 of the Constitution the Chief Executive or Director having received their delegations expressly or by default can then prepare a scheme of “authorisations” or “allocations” authorising identified officers to discharge various functions and to take decisions. Unless authorised by law a delegate cannot delegate further their own functions (“*delegatus non potest delegare*”) and thus the discharge of functions below Chief Executive and Director level is generally by a “scheme authorisations” not a “scheme of delegation”. If there were to be a further “delegation” they are to be recorded in writing and retained for the duration of the delegation and shall not exceed a specified period exceeding six months.

2. PROPOSAL(S):

The proposal is that Committee reserves to itself the “matters reserved” at Appendix 2 and delegates all other functions to Officers as set out in Appendix 1 Part 2

3. OPTIONS:

1. Do nothing
2. Agree the proposals as recommended
3. Agree the proposals as recommended but with suggested amendments for clarifications to be made to CWP for consideration and recommendation to Full Council

4. CONSULTATION:

N/A

Has consultation been undertaken with?	YES	NO
Relevant Town/Parish Council		
Relevant District Ward Councillors		
Other groups/persons (please specify)		

5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial		
Legal		
Human Rights/Equality Impact Assessment		
Community Safety including Section 17 of Crime & Disorder Act		
Sustainability		
Asset Management/Property/Land		
Technology		
Other (please explain)		
6. IMPLICATIONS: <p>Legal: the legal implications are set out in the background paragraph above</p> <p>Finance: the financial implications of delegations are set out in the contract standing Orders and in the Financial Regulations</p>		
7. REASON FOR THE DECISION: <p>The reason for the decision is to allow the business of the Council to be conducted effectively and efficiently in accordance with the principle of subsidiarity which mandates that decisions are to be taken at the most appropriate level.</p>		
8. BACKGROUND PAPERS: Committee Calendar 2021-22		

APPENDIX 1

Residential and Wellbeing Services Committee Terms of Reference from 2021/2022

PART 1 - GENERAL TERMS OF REFERENCE

Extract from Part 3 Paragraph 3 of the Constitution

3.0 TERMS OF REFERENCE OF COMMITTEES

3.1 Committees will work to the following general terms of reference in discharging the specific functions allocated to them:

3.1.1 Each Committee may hold inquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do other things that they reasonably consider necessary to inform their deliberations.

3.1.2 Each Committee is expected to determine by resolution all matters falling within their purpose and functions with the exception of:

- a) any plans and strategies listed in the Policy Framework at Article 4 of this Constitution;
- b) compulsory purchase orders;
- c) limitations set out in the Financial Procedure Rules and Purchasing, Procurement, Contracts & Disposals Rules as set out in Part 6 of this Constitution; and
- d) any matter which by law must be reserved to the Full Council

which will be recommended to the Full Council or Corporate Policy and Performance Committee, as appropriate.

3.1.3 Where a function does not clearly fall within the remit of one particular Service Committee, the Corporate Policy and Performance Committee shall direct which Committee shall deal with the function, or deal with the matter itself.

3.1.4 Each Committee is authorised to establish Sub-Committees and Working Parties as it considers necessary for the effective conduct of the Committee's powers and duties. The establishment of any Sub-Committees and Working Parties shall have regard to the overall resource parameters and advice of the Chief Executive and officers.

3.1.5 Each Committee is authorised to delegate to officers such further powers as it thinks fit to facilitate the effective management of the Council's and the Committee's business.

3.1.6 In discharging its functions, Committees must have regard to the ongoing requirement to make savings and efficiencies.

APPENDIX 1

PART 2 - SPECIFIC TERMS OF REFERENCE OF RESIDENTIAL AND WELLBEING SERVICES COMMITTEE – 2021/2022

Purpose

The Committee has delegated authority to exercise the Council's functions relating to the delivery, by or on behalf of the Council directly or through any Sub-Committees it establishes, and through partnership arrangements, that fall within the following service areas:

- Housing Strategy and Enabling
- Housing Revenue Account (HRA)
- Homelessness
- Revenues and Benefits
- Leisure and Culture
- Community Safety
- Wellbeing
- Safeguarding
- Lifeline

The Committee will lead on the following key plans and strategies:

- HRA Business Plan
- Leisure Strategy
- Crime and Disorder Reduction Strategy

Specific Functions

The Committee shall also exercise the following specific functions by or on behalf of the Council:

1. Approving any service area policies where these do not require a Full Council decision under the Policy Framework at Article 4 of this Constitution.
2. Authorising the disposal of all HRA assets (land and property), outside of Right to Buy, and that the sale proceeds be reinvested back into the HRA account on all occasions.
3. Keeping under review the Council Tax Reduction Scheme and making recommendations to the Corporate Policy and Performance Committee where there are any financial consequences.
4. Approving cases for write-off where the current tenant arrears have accrued up to the point of bankruptcy being declared or the arrears are covered by an Administration Order.
5. Approving write-offs of former tenant arrears, rent arrears and other debts.
6. Approving cases for write-off for Council Tax and for National Non-Domestic Rates.
7. Approving variations to the terms and conditions of the Dual Use Agreement relating to the Arun Leisure Centre between the Council and West Sussex County Council to reflect the asset responsibility matrix submitted as part of the leisure operating contract.

8. Adopting Public Space Protection Orders which fall within the responsibility of this Committee.
9. Monitoring and considering Ombudsman investigation reports and other complaints made.
10. Considering and awarding compensation in the event that a complaint investigation finds in a complainant's favour.
11. In line with the limits listed in the Financial Procedure Rules set out in Part 6 of this Constitution approval of:
 - a) the virement of monies received in accordance with the terms of any agreement made under Section 106 Town Country Planning Act 1990;
 - b) virements of expenditure within relevant service area budgets;
 - c) the drawing down of funds; and
 - d) the award of grants to organisations, including discretionary rate relief

Performance Management

The Committee will have responsibility for monitoring service performance within the Corporate Plan and Service Delivery Plans across the range of their functions and reporting on the outcomes of their review to the Corporate Policy & Performance Committee.

Outside Bodies

The Committee will receive feedback reports from the Council's representatives or appointees on outside bodies as appropriate.

APPENDIX 2

RESERVED MATTERS

The functions set out in Appendix 1 part 2 above are all delegated to officers except for the following functions, which are expressly reserved to committee for determination and cannot be discharged by an officer:

1. Authorising the disposal of all HRA assets (land and property), outside of Right to Buy, and that the sale proceeds be reinvested back into the HRA account on all occasions.
2. Keeping under review the Council Tax Reduction Scheme and making recommendations to the Corporate Policy and Performance Committee where there are any financial consequences.
3. Approving cases for write-off where the current tenant arrears exceed £10,000 have accrued up to the point of bankruptcy being declared or the arrears are covered by an Administration Order.
4. Approving Write-offs of former tenant arrears, rent arrears and other tenant debts in excess of £10,000
5. Approving cases for write-off for Council Tax and for National Non-Domestic Rates.
6. Approving variations to the terms and conditions of the Dual Use Agreement relating to the Arun Leisure Centre between the Council and West Sussex County Council to reflect the asset responsibility matrix submitted as part of the leisure operating contract.
7. Determining any matters that are not delegated to officers arising from the Council's statutory responsibilities under the Crime & Disorder Act 1988 and the Anti-Social Behaviour, Crime and Policing Act 2014.
8. Adopting extending, varying or discharging Public Space Protection Orders which fall within the responsibility of this Committee.

Debts

9. Sundry Debts – to write-off irrecoverable amounts in excess of £2,000
10. Current tenant arrears – to consider cases for write-off exceeding the value of £10,000.

Compensation

11. Monitoring and considering Ombudsman investigation reports and other complaints made.
12. Considering and awarding compensation in excess of £5,000 if a complaint investigation finds in a complainant's favour

Award of Grants

13. The award of grants to organisations in excess of £20,000.

Procurement

14. Awarding contracts valued at over £100,000 unless prior authorisation has been given to officers by a report to committee approving the budget and setting out relevant heads of terms of the contract

Charges for Services

15. Increasing and decreasing charges for services not covered by contractual arrangements

Outside Bodies

16. The Committee will receive feedback reports from the Council's representatives or appointees on outside bodies as appropriate.

Legal Professional privilege

17. Waiver of Legal Professional Privilege in consultation with Legal Service