

**ARUN DISTRICT COUNCIL
REPORT TO ENVIRONMENT AND NEIGHBOURHOOD SERVICES
COMMITTEE
ON 27 MAY 2021**

SUBJECT: Terms of Reference for the Environment and Neighbourhood Services Committee; Matters Reserved; and Delegation to Officers

REPORT AUTHOR: Solomon Agutu – Interim Monitoring Officer
DATE: 27 May 2021
EXTN: 37432
COMMITTEE: Environment and Neighbourhood Services Committee

EXECUTIVE SUMMARY:

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

RECOMMENDATIONS:

The Committee is recommended to:

1. Note the general terms of reference for Committees in Part 3, Paragraph 3, of the Constitution and further note the specific terms of reference of this Environment and Neighbourhood 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 suggestions to Full Council, through the Constitution Working Party (CWP) for clarifications of these terms of reference;
3. Note the schedule of Environment and Neighbourhood Services Committee meetings as set out in the Calendar of meetings, attached as a background paper accessible by e-link; and
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 (CWP) which is charged with reviewing the Constitution and coordinating suggestions for change 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 for 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) - see Appendix 1.

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 the 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 to 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 the 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		X
Relevant District Ward Councillors		X
Other groups/persons (please specify)		X

5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial	X	
Legal	X	
Human Rights/Equality Impact Assessment		X
Community Safety including Section 17 of Crime & Disorder Act		X
Sustainability		X
Asset Management/Property/Land		X
Technology		X
Equality and Diversity		X
Climate Change		X
Other (please explain)		X
<p>6. IMPLICATIONS:</p> <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:

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.

8. BACKGROUND PAPERS:

[Calendar of Meetings](#)

**Environment and Neighbourhood 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 - ENVIRONMENT AND NEIGHBOURHOOD 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:

- Green Spaces
- Cemeteries
- Waste and Recycling
- Car Parks
- Engineering
- Environmental Health
- Building Control
- Emergency Planning
- Foreshores

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

- Waste and Recycling 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. Adopting Public Space Protection Orders which fall within the responsibility of this Committee.
3. Monitoring and considering Ombudsman investigation reports and other complaints made.
4. Considering and awarding compensation in excess of £5,000 in the event that a complaint investigation finds in a complainant's favour.
5. 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

RESERVED MATTERS

The functions set out in Appendix 1 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:

Compensation

Monitoring and considering Ombudsman investigation reports and other complaints made.

Considering and awarding compensation in excess of £5,000 if a complaint investigation finds in a complainant's favour

Award of Grants

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

Procurement

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 Car Parking

Increasing and decreasing charges for car parking.

Enforcement Policy(ies)

Adopting and revoking Enforcement Policies

Street and Place Names

Where the name of a place or a street is intended to be a living person, or a person associated with a political party

Outside Bodies

The Committee will receive feedback reports from the Council's representatives or appointees on the following outside bodies and report any issues requiring action to the Council as appropriate:

- Littlehampton Harbour Board
- LGA's Coastal Issues Special Interest Group
- Inter Authority Air Quality Group
- South East Coastal Group Monitoring Meeting

Legal Professional privilege

Waiver of Legal Professional Privilege in consultation with Legal Services