

**ARUN DISTRICT COUNCIL  
REPORT TO ECONOMIC COMMITTEE  
ON 8 JUNE 2021**

**PART A : REPORT**

**SUBJECT** Terms of Reference of Economic Committee, Matters Reserved and Delegation to Officers

**REPORT AUTHOR:** Solomon Agutu – Interim Monitoring Officer

**DATE:** 8 June 2021

**EXTN:** 37432

**EXECUTIVE SUMMARY:**

This report asks Economic 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. Make suggestion to Full Council through the constitution Working Party for clarifications of these terms of reference
2. 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)		
<b>5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)</b>	<b>YES</b>	<b>NO</b>
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)		
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**6. IMPLICATIONS:**

**Legal:** the legal implications are set out in the background paragraph above

**Finance:** the financial implications of delegations are set out in the contract standing Orders and in the Financial Regulations

**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:**

[Committee Calendar 2021-22](#)

## **APPENDIX 1**

### **Economic 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

## 1.1 ECONOMIC COMMITTEE

### **Membership**

11 Members

### **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:

- Economic Policy and Research
- Economic Partnerships
- Commercial Investment
- Commercial Activities
- Town Centre revival
- Business Development
- Tourism
- Property and Estates
- Land Charges
- Regeneration

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

- General Fund Commercial Strategy
- General Fund Asset Management Plan
- General Fund Property Investment Strategy
- General Fund Economic 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. Determining matters relating to all functions (acquisition, disposal, declaring as surplus to requirements, repair and maintenance) relating to General Fund land assets and property both residential and commercial.
3. Recommending any financial implications beyond agreed budgets from delivery of the Commercial Strategy to the Corporate Policy & Performance Committee.
4. Determining matters relating to terms to let, lease or license land or building or any interest in land or buildings which are or will be under the control of the Council
5. Reviewing the operation of any Council owned companies.

6. Monitoring and considering Ombudsman investigation reports and other complaints made.
7. Considering and awarding compensation in the event that a complaint investigation finds in a complainant's favour.
8. 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
9. Making recommendations to the Full Council in relation to all major regeneration projects, including land and property, affecting the towns and villages within the Arun District.
10. In terms of major regeneration projects, approving the:
  - a) recruitment and engagement of consultants;
  - b) agreement to consult on certain stages of plans/proposals;
  - c) monitoring of progress against agreed action plans and any necessary actions to address problems etc; and
  - d) agreement to the drawing down of funds within the responsibilities of the Committee as listed in the Financial Procedure Rules at part 6 of this Constitution.

**Note**

The Committee will not encroach on any of the responsibilities of the Planning Committee, Licensing Committee or the Planning Policy Committee.

## **APPENDIX 2**

### **ECONOMIC COMMITTEE**

#### **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 unless specific prior delegation has been given by Committee:

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

#### **Acquisition and disposal**

2. To agree terms for the acquisition and disposal of land (including any buildings and structures thereon) or any interest therein Over £250,001

#### **Leasing etc**

3. To agree terms to let, lease or license land or building or any interest in land or buildings which are or will be under the control of the Council where the rent exceeds £100,000 per annum (exclusive of rates) and the term of letting, leasing or licensing exceeds 25 years
4. To agree terms for the grant or benefit of easements and other rights in respect of land including party wall matters affecting the Council as land owner or to agree to a request from a lessee for a licence to assign or sub-let where the value exceeds £100,000 per annum
5. To authorise the taking of action, including legal proceedings, for possession and forfeiture in cases of non-payment of rent or other breaches of the terms of leases or licences where the rent of such lease or licence exceeds £50,000 per annum.

#### **Debts**

6. Sundry Debts – to write-off irrecoverable amounts in excess of £2,000
7. Current commercial tenant arrears – to consider cases for write-off exceeding the value of £10,000.
8. Covid related write offs requests from SMEs in the retail, leisure & hospitality sectors tenants exceeding £10,000 in any one financial year

#### **Compensation**

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

#### **Award of Grants**

11. The award of grants to organisations in excess of £10,000.

### **Procurement**

12. 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
13. In terms of major regeneration projects, approving the:
  - recruitment and engagement of consultants;
  - agreement to consult on certain stages of plans/proposals;
  - monitoring of progress against agreed action plans and any necessary actions to address problems etc; and
  - agreement to the drawing down of funds within the responsibilities of the Committee as listed in the Financial Procedure Rules at part 6 of this Constitution.

### **Performance Management**

14. 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

### **Legal Professional privilege**

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

For the avoidance of doubt, it is hereby stated that the Committee retains the power to decide any matter which is delegated to officers.