

ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF CORPORATE POLICY AND PERFORMANCE COMMITTEE ON 17 JUNE 2021

SUBJECT Terms of Reference of Corporate Policy and Performance Committee,
Matters Reserved and Delegation to Officers

REPORT AUTHOR: Solomon Agutu – Interim Monitoring Officer

DATE: 26 May 2021

EXTN: 37432

COMMITTEE: Corporate Policy and Performance Committee

EXECUTIVE SUMMARY:

This report asks the Corporate Policy and Performance Committee to note its Terms of Reference as given by Full Council and to make any suggestions for change to the Constitution Working Party (CWP) for clarifying these Terms of Reference and to make delegations to Officers under matters reserved.

RECOMMENDATIONS:

That the 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 for the Corporate Policy and Performance Committee as established by Full Council on 19 May 2021 as set out in part 1 and Part 2 of Appendix 1 (attached);
2. Makes suggestions to Full Council through the Constitution Working Party(CWP) for clarifications of these Terms of Reference;
3. Notes the schedule of Corporate Policy and Performance Committee meetings as set out in the Calendar of meetings provided as an e-link in the background papers section of this report; and
4. Identify the matters to be on the matters reserved scheme whereby matters not reserved by Committee to itself are delegated to Officers by default and 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 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 that 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.The matters not reserved are usually delegated to the Chief Executive or Departmental Director. It should be noted that a delegation of functions does not prevent Committee from calling for a decision to be made by Committee and does not prevent an officer from deciding in appropriate cases to refer matters to Committee. Delegations to Officers can be withdrawn or amended.

6.The Chief Executive or Director having received their delegations from Committee 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 level is generally by a “scheme authorisations” not a “scheme of delegation” –

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 | | 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 |
| Other (please explain) | | X |
| 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:

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

Corporate Policy and Performance 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

CORPORATE POLICY AND PERFORMANCE COMMITTEE

Terms of Reference from 2021/2022

PART 2 - SPECIFIC TERMS OF REFERENCE

Membership

9 Members

Purpose

This 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:

- Corporate Policy
- Corporate Performance
- Partnership and Liaison (excluding where this falls within another Service Committee's functions)
- Public Engagement

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

- Corporate Plan
- Budget preparation and monitoring
- Medium Term Financial Strategy
- Capital Strategy
- Major emergency response
- Climate Change Strategy

Specific Functions

The Committee shall also exercise the following specific functions by or on behalf of the Council that fall within its remit:

1. Considering any policies that do not fall within a Service Committee's remit and approving these where they do not require a Full Council decision under the Policy Framework at Article 4 of this Constitution.
2. Overseeing the development and monitoring of the Corporate Plan taking account of the outcomes of performance reviews by the Service Committees and recommending any areas for change to the Full Council in line with the Policy Framework.
3. Overseeing the development and monitoring of the Service Delivery Plans and approving any change taking account of the outcomes of performance reviews by the Service Committees.
4. Leading on the budget setting process, in consultation with the other Service Committees, and putting forward a draft budget to the Full Council for approval.
5. Considering updates on the Medium-Term Financial Strategy and providing guidance to the other Service Committees as necessary.

6. Considering periodic budgetary monitoring and variation reports and making any recommendations to the Full Council as necessary.
7. Considering the Financial Outturn Report annually.
8. Considering requests for supplementary estimates outside of the budget and making recommendations to Full Council based on the limits listed in the Financial Procedure Rules set out in Part 6 of this Constitution.
9. Overseeing the development of the Climate Change Strategy and any subsequent Action Plan.
10. Monitoring and considering Ombudsman investigation reports and other complaints made.
11. Considering and awarding compensation in the event that a complaint investigation finds in a complainant's favour.
12. 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
13. Providing leadership in the promotion and improvement of the District's economic, social and environmental well-being.
14. Encouraging fair and appropriate levels of community engagement in the Council's business.
15. Identifying issues to which the Council should attach priority and ensuring that these priorities are given proper effect.
16. Providing a focus for national, regional and sub-regional networking.
17. Clarifying the Council's position on issues of importance through appropriate internal and external communications.

Outside Bodies

- (a) The Committee will receive feedback reports from the Council's representatives on outside bodies

APPENDIX 2
CORPORATE POLICY AND PERFORMANCE COMMITTEE
RESERVED MATTERS/MATTERS RESERVED

The following functions, are expressly reserved to committee for determination and cannot be discharged by an officer:

1.....

2.....

3.....