

ARUN DISTRICT COUNCIL

REPORT TO AUDIT AND GVERNANCE COMMITTEE

ON 29 JULY 2021

REPORT

SUBJECT: Terms of Reference of Audit and Governance Committee, Matters Reserved and Delegation to Officers

REPORT AUTHOR: Solomon Agutu – Interim Monitoring Officer

DATE: July 2021

EXTN: 37432

COMMITTEE: Audit and Governance Committee

EXECUTIVE SUMMARY:

This report asks the Audit and Governance Committee to note its terms of reference as given by Full Council, and to make delegations to Officers under matters reserved if considered appropriate.

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 Audit and Governance Committee as established by Full Council on 19 May 2021 as set out in part 1 and Part 2 of Appendix 1 (attached)
2. Note the schedule of Audit and Governance Committee meetings set out in the Calendar of meetings attached

Background

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

4. The matters not reserved are usually delegated to the Chief Executive or Departmental Director, but sometimes to post holders in consultation with the Chief Executive and 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 Delegations to Officers can be withdrawn or amended.
5. The Group Head, 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 notes its terms of reference and calendar and consider whether a matters reserved scheme is required for this Committee.

3. OPTIONS:

1. Do nothing
2. Agree the proposals as recommended
3. Agree the proposals as recommended but with proposed amendments to Constitution Working Party for 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		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: N/A		

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](#)

APPENDIX 1

Audit and Governance 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

Audit and Governance Committee terms of Reference from 2021/2022 **PART 2 - SPECIFIC TERMS OF REFERENCE**

Membership

11 Members

No Member can serve on this Committee in any capacity unless all of the required training determined to be necessary by the Group Head of Corporate Support in consultation with the Chair has been undertaken.

Purpose

The Committee has delegated authority to exercise the following functions of the Council:

- Corporate Complaints
- Internal Audit
- External Audit
- Members Allowances
- External scrutiny of partners

Specific Functions

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

1. Providing an independent assurance of the adequacy of the governance and risk management frameworks and the associated control environment so as to best protect the Council's reputation.
2. Providing independent scrutiny of the authority's financial and non-financial performance, to the extent that it affects the authority's exposure to risk and weakens the control environment.
3. Overseeing the financial reporting process.
4. Overseeing the work of internal and external audit and receive periodic reports on the work of the authority's Governance and Risk Group.
5. Advising the Council on:
 - a) Appropriate arrangements for internal audit activity, in line with published standards
 - b) The arrangements for the provision of external audit services
 - c) The effectiveness of anti-fraud measures
 - d) The arrangements for an appropriate Regulatory framework
 - e) Corporate Governance including approval of the Annual Governance Statement
 - f) Compliance with contract and financial procedure rules of the Constitution

- g) Matters arising from the review and approval of the Annual Statement of Accounts by the Committee
 - h) The Authority's Treasury Management Strategy and results
 - i) The policy regarding provisions of the Regulation of Investigatory Powers Act 2010 (RIPA) and the use of such powers by the Council
6. Approving arrangements for establishing an Independent Remuneration Panel, in accordance with statutory requirements, and instructing the Chief Executive to make any appointments to the Panel in line with their delegated authority at Part 3, Section 2 of this Constitution.
7. Overseeing the work of the Independent Remuneration Panel in its periodic consideration of Members Allowances.
Reviewing and considering the Member Allowances Scheme based on reports from the Independent Remuneration Panel and making recommendations to the Full Council as required