

CONSTITUTION

The powers, functions and responsibilities of
Mid and East Antrim Borough Council

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Introduction

Mid and East Antrim Borough Council has agreed a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The constitution is divided into 13 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at Parts 2 to 6 of the Constitution.

What's in the Constitution?

Article 1 of the Constitution sets out the purpose of the Constitution. Articles 2 – 13 explain how the key parts of the Council operate, and the rights of citizens.

These Articles are:

- Article 1 The Constitution**
The powers of the Council and the purpose of the Constitution.
- Article 2 Members of the Council**
The composition of the Council, the roles and functions of all councillors, conduct and the scheme of allowances.
- Article 3 Citizens and the Council**
The rights and responsibilities of citizens.
- Article 4 The Council**
The policy and budget framework within which the Council operates, the functions for the Council and responsibility for functions.
- Article 5 Chairing the Council**
The role of the Mayor.
- Article 6 Decision-making structures**
Details of the decision-making structure adopted by the Council.
- Article 7 Committees**
The arrangements adopted by council for the discharge of functions by committees.
- Article 8 Joint Arrangements**
The operation of any joint committees.
- Article 9 Officers**

The Council's management structure, the functions of chief officers, conduct and employment.

Article 10 Procedures for decision-making

Responsibility for decision-making, principles of decision-making, the role of Council and committees.

Article 11 Finance, Contracts and Legal Matters

The Council's arrangements for the conduct of financial matters, the making of contracts and the handling of legal matters.

Article 12 Review and Review of the Constitution

The arrangements for the review and revision of the Constitution.

Article 13 Suspension, Interpretation and Publication of the Constitution

Matters relating to the suspension of the Constitution, its interpretation and publication.

How the Council operates

The Council is composed of 40 councillors elected every four years.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Code of Conduct for Members is set out at Part 4, Annex J of the Constitution.

All 40 councillors meet together as the Council at least once a month. Meetings of the Council are normally open to the public.

How decisions are made

The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely.

The Employee and Councillor Working Relationship Protocol which is set out at Part 4 Annex L of the Constitution governs the relationships between officers and members of the council.

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others

depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individual's legal rights.

Citizens have the right to:

- Contact their local councillor about any matters of concern to them;
- Obtain a copy of the Constitution;
- Attend meetings of the Council and its committees and public meetings except where, for example, personal or confidential matters are being discussed;
- Inspect agendas and reports except those which contain, for example, personal and confidential matters;
- See reports and background papers, and any record of decisions made by the Council and its Committees;
- Exercise their rights under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 to obtain information held by the Council;
- Complain to the Council under the Council's own complaints process;
- Complain to the Commissioner of Complaints if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- Complain to the Commissioner of Complaints if they believe a Councillor has breached the Councillors' Code of Conduct;
- Inspect the Council's accounts and make their views known to the Local Government Auditor.

The Council welcomes participation by all its citizens in its work.

ARTICLE 1 – THE CONSTITUTION

1.1 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

1.2 The Constitution

This Constitution, and all its appendices, is the Constitution of Mid and East Antrim Borough Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- b) support the active involvement of citizens in the process of local authority decision making;
- c) help councillors represent their constituents more effectively;
- d) enable decisions to be taken efficiently and effectively;
- e) create a powerful and effective means of holding decision-makers to public account;
- f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- h) provide a means of improving the delivery of services to the community.

1.4 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the statements of purpose in paragraph 1.3.

The Council will monitor and evaluate the operation of the Constitution.

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.1 Composition and eligibility

The Council comprises 40 elected members, otherwise called councillors. The councillors are elected by the voters of each district electoral ward in accordance with a scheme drawn up by Electoral Office for Northern Ireland.

Only registered voters of the area or those living or working in the area, are eligible to hold the office of councillor.

2.2 Appointment of Aldermen of Council

Council may decide how many aldermen there shall be but the number shall not exceed one quarter of the whole number of councillors, therefore a maximum of 10 of the elected members may be elected as an alderman at the first annual meeting of council following a local Government election for the term of Council. If any of the titles become vacant, they may be filled at the next annual meeting of Council.

The honorary title does not confer any additional authority, privileges or responsibility over the remaining elected members, beyond granting the right to be referred to by that title instead of Councillor.

To be eligible, as a candidate for alderman, a councillor must be nominated by being proposed by a councillor, seconded by another and must assent to the nomination. Any nomination may be made, and any assent may be given, either in the course of the meeting or by a document signed by the councillor or councillors in question and delivered to the clerk of the council before the beginning of the meeting.

If 10 or less elected members are nominated to be designated as aldermen, the designation will be uncontested and the person presiding at the meeting shall declare all the nominated candidates to be elected.

In the event of a contested election of an alderman a councillor entitled to vote shall do so by signing and delivering at the meeting to the clerk of the council a voting paper containing in order of preference the full names of the candidate or candidates that he is voting for.

The clerk of the council shall, as soon as all the voting papers have been delivered to him, proceed to ascertain the result of the voting and shall state the number of votes given to each candidate at each stage of the counting of the votes.

Where at any stage of the counting of votes the votes recorded for any candidate are equal to or greater than the quota, the candidate shall be deemed to be elected.

The appointment of an alderman is by Single Transferable Vote method. The transfer of the surplus votes cast for any candidate shall be effected by the transfer of such surplus votes in proportion to the number of the next available preference votes expressed for other candidates in the voting papers of a successful candidate. If at any stage of the counting of votes two or more candidates have surplus votes, the largest surplus shall be transferred first.

If the quota is not achieved after the transfer of all surpluses (if any), the candidate or candidates with the highest number of votes shall be elected to fill the remaining vacancies.

In the case of an equality of votes for any candidates, the person presiding at the meeting may give a casting vote, whether or not he voted in the first instance, or if the person presiding declines to give a casting vote the matter shall be decided by lot.

In the case of a contested election the person presiding at the meeting shall declare to be elected as many candidates as there are vacancies to be filled, and in cases where fewer nominations are received than there are vacancies shall be declare to be elected all the candidates nominated.

Any questions or matters arising concerning the counting of votes shall be determined by the clerk of the council.

2.3 Election and terms of councillors

The regular election of councillors will be held on the first Thursday in May every four years. The next local election is scheduled to be held in 2023. The term of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.4 Roles and functions of all councillors

All councillors will:

- a) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- b) Bring views of their communities into the Council's decision-making process;
- c) Effectively represent the interests of their ward and of individual constituents;
- d) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- e) Respond to constituents' enquiries and representations, fairly and impartially;
- f) Participate in the governance and management of the Council;
- g) Be available to represent the Council on other bodies; and
- h) Maintain the highest standards of conduct and ethics.

Rights and duties

- a) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- b) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- c) Subject to the Code of Conduct for Members, the common law rule against bias and the Council Procedure Rules, councillors have a right to speak and vote on any item before the Council and councillors who are members of a committee have a right to speak and vote on any item before that committee.
 - i. For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.5 Conduct

Councillors will at all times observe the Code of Conduct for Members set out in Part 4, Annex I of this Constitution.

2.6 Allowances

Councillors will be entitled to receive allowances in accordance with the Members Allowance Scheme, outlined in Part 5 of this Constitution.

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.1 Citizens' rights

Residents and others who avail of the Council's services have the following rights in relation to the operation of the Council. Their rights to information and to attend meetings of the Council or its committees are explained in more details in the Access to Information Rules in Part 4 of this Constitution.

3.2 Information.

Citizens have the right to:

- a) Attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- b) See reports and background papers (except where confidential or exempt), and any records of decisions made by the Council;
- c) Inspect the Council's accounts and make their views known to the Local Government Auditor; and
- d) Exercise their rights under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 to obtain information held by the Council.

3.3 Complaints

Citizens have the right to complain to:

- a) The Council itself under its complaints, comments and compliments scheme;
- b) The Northern Ireland Commissioner of Complaints after using the Council's own complaints, comments and compliments scheme;
- c) The Northern Ireland Commissioner of Complaints in respect of an allegation that a councillor (or former councillor) has failed, or may have failed, to comply with the Northern Ireland Local Government Code of Conduct for Councillors.

3.4 Citizens' responsibilities

Citizens must not be violent, abusing or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers.

ARTICLE 4 – THE COUNCIL

4.1 Meanings

Policy Framework

Those plans and strategies prescribed in legislation to be adopted by the Council; and other plans and strategies, which Council may decide to adopt as a matter of choice.

The diagram below outlines how the policy framework links together:



Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council rate base, setting the district rate and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

4.2 Functions of the Council

The roles and responsibilities of councils, established in the Local Government Act 2014 and in other legislation, fall into four types:

Direct – councils are responsible for the provision and management of services

Development – councils have a role in facilitating economic and community development initiatives

Representative – council nominees sit on statutory bodies

Consultative – councils reflect community views and concerns, and provide a challenge function, in a range of issues including education, health and housing.

Council is responsible for a range of services falling broadly within Waste Management; Open Spaces; Culture, Arts and Leisure; Regulatory Services; Economic Growth and Development; and Planning.

4.3 Council meetings

There are three types of Council meeting:

- a) The annual meeting
- b) Ordinary meetings
- c) Extraordinary meetings

And they will be conducted in accordance with the Council Standing Orders in Part 3 of the Constitution.

4.4 Responsibility for functions

The Council will maintain Part 2 of this Constitution setting out the responsibilities of the Council's functions.

ARTICLE 5 – CHAIRING THE COUNCIL

- 5.1 The Mayor and in his/her absence, the Deputy Mayor will have the following roles and functions:
- a) To uphold and promote the purposes of the Constitution;
 - b) To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
 - c) To endeavour to ensure that the Council meeting is a forum for the debate of matters of concern to the local community;
 - d) To promote public involvement in the Council's activities; and
 - e) To attend such civic and ceremonial functions as the Council and he/she determines appropriate.
- 5.2 The Mayor and Deputy Mayor will be elected annually at the Annual Meeting of the Council, along with Chair, Vice Chair of Committees and Committee Members.

ARTICLE 6 – DECISION MAKING STRUCTURES

- 6.1 The Council has determined to operate a committee system as permitted by Section 19 Local Government Act (Northern Ireland) 2014
- 6.2 Proceedings of the committees shall take place in accordance with the Council's Standing Orders set out in Part 3 of this Constitution.

ARTICLE 7 – COMMITTEES

7.1 The Council has appointed committees to enable it to discharge its functions.

7.2 These are:

- Corporate Resources, policy and Governance Committee
- Environment and Economy Committee
- Neighbourhoods and communities Committee
- Planning Committee
- Audit Committee
- Scrutiny Committee
- Standards Committee

7.3 The functions for which each committee is responsible for is detailed in the Scheme of Delegation, Annex D of this Constitution.

ARTICLE 8 – JOINT ARRANGEMENTS

- 8.1 The Council may establish joint arrangements with one or more district councils to exercise functions which are not executive functions in any of the participating authorities, or to advise the Council.
- 8.2 Such arrangements may involve the appointment of a joint committee with these other local authorities.
- 8.3 Details of any Joint Arrangements will be found in Annex C of this Constitution.

ARTICLE 9 – OFFICERS

9.1 The Council may engage such staff (referred to as officers), as it considers necessary to carry out its functions.

9.2 Functions of the clerk to the Council

The Clerk to the Council is responsible for the discharge of functions by the Council. The Clerk will report to full Council on the manner in which the discharge of the Council's functions is coordinated and resourced.

The Clerk has authority over all other officers so far as is necessary for the efficient management and for carrying out the Council's functions.

9.3 Functions of the chief financial officer

The Chief Financial Officer ensures the lawfulness and financial prudence of decision-making. The Chief Finance Officer will report to the full Council and the council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the council is about to enter an item of account unlawfully.

In accordance with the Local Government Finance Act (Northern Ireland) 2011 to advise on robustness of estimates and level of resources.

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the council.

The Chief Finance Officer will contribute to the corporate management of the council, in particular through the provision of professional financial advice.

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

9.4 Duty to provide sufficient resources to the chief financial officer

The Council will provide the chief financial officer with such officers, accommodation and other resources as are, in its opinion sufficient to allow their duties to be performed.

9.5 Conduct

Officers will comply with the Officers' Code of Conduct and the Local Government Employee and Councillor Working Relationship Protocol set out in Part 4, Annex K of this Constitution.

ARTICLE 10 – DECISION MAKING

10.1 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual officer has responsibility for particular types of decisions or decisions relating to particular areas or functions.

10.2 Principles of decision making

Decisions of the Council should be made in accordance with the following principles:

- a) Proportionality (meaning the action must be proportionate to the results to be achieved);
- b) Due consultation (including the taking of relevant professional advice);
- c) Respect for human rights, equality and fairness;
- d) Presumption in favour of openness;
- e) Clarity of aims and desired outcomes;
- f) Due consideration to be given to alternative options;
- g) Reasons for the decisions to be given provided there is no breach of confidentiality.

10.3 Decisions to be taken by a qualified majority

Decisions of Council which must be taken by a qualified majority, i.e. by 80% of the votes of members present and voting, are set out in the Council Standing Orders (Standing Order 8) in Part 3 of the Constitution.

10.4 Decision-making by the Council

The Council meeting will follow the Council Standing Orders set out in Part 3 of this Constitution when considering any matter.

10.5 Decision-making by other committees established by the Council

Council committees will follow those parts of the Council Standing Orders set out in Part 3 of the Constitution as apply to them.

10.6 Reconsideration of decisions

Decisions of the Council or a committee of the council will be subject to reconsideration if 15 per cent of the members of the Council present to the clerk of the Council a requisition on either or both of the grounds specified in section 41(1) of the Local Government Act (Northern Ireland) 2014. These are:

- i. that the decision was not arrived at after a proper consideration of the relevant facts and issues;
- ii. that the decision would disproportionately affect adversely any section of the inhabitants of the district.

The procedures to be followed in relation to a requisition for the reconsideration of a decision are set out in the Council Standing Orders [Standing Order 9] in Part 3 of this Constitution.

ARTICLE 11 – FINANCE, CONTRACTS AND LEGAL MATTERS

11.1 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedures Rules set out in Part 3 of this Constitution.

11.2 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 3 of this Constitution.

11.3 Legal proceedings by and against the Council

The Chief Executive is authorised to institute, defend or participate in any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council or in any case where legal opinion considers that such action is necessary to protect the Council's interests.

11.4 Authentication of documents

Where any document will be a necessary step in legal proceedings on behalf of the Council it shall be signed by the Clerk and Chief Executive unless any enactment otherwise requires or authorises, or the Council gives the necessary authority to some other person for the purpose of such proceedings.

11.5 Common Seal of the Council

The Common Seal of the Council shall be kept secure in the custody of the Clerk and Chief Executive.

The Common Seal of the Council shall not be affixed to any documents unless the sealing has been authorised by a resolution of Council or of a Committee of Council having lawful powers or to which Council has delegated its powers in this behalf, authorising the acceptance of any tender, purchase, sale, letting or taking of any property the issue of any stock, the presentation of any petition, memorial, or address, the making of any rate or contract, or the doing of any other thing, shall be a sufficient authority for the sealing of any document necessary to give effect to the Resolution.

The seal shall be attested by the following persons at the sealing, namely, the Mayor, Deputy Mayor or Chairman of the Council or other Member of the Council and the Clerk and Chief Executive, Deputy Chief Executive or other senior Official authorised thereto by him if he is absent from his office.

An entry of the sealing of every deed and other document to which the Corporate Seal shall have been affixed shall be made in the Minutes of the Meeting of the Council at which the affixing of the Seal took place.

ARTICLE 12 - REVIEW AND REVISION OF THE CONSTITUTION

12.1 Duty to keep the Constitution up to date

The Chief Executive will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Council will be provided with an annual report on the effectiveness of the Constitution and decision making structure.

12.2 Changes to the Constitution

All proposed changes to the Constitution will be debated and agreed by a majority of the Council.

ARTICLE 13 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

13.1 Suspension of the Constitution

The Articles of this Constitution may not be suspended. The Procedure Rules specified below may be suspended by the full Council to the extent permitted within those Procedure Rules and the law.

13.2 Procedure to suspend

A motion to suspend any Procedure Rules will not be moved without notice unless at least one-half of the total number of councillors is present. The extent and duration of suspension

will be proportionate to the result to be achieved, taking account of the statements of purpose of the Constitution set out in Article 1.

13.3 Procedure Rules capable of suspension

The following Procedure Rules may be suspended in accordance with Article 13.1.

13.4 Interpretation

The ruling of the Mayor in relation to the interpretation or application of this Constitution, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purpose of this Constitution contained in Article 1.

13.5 Publication

A printed copy of this Constitution will be given to each member of the Council upon delivery to the clerk to the Council of that individual's declaration of acceptance of office on the member first being elected to the Council.

Part 2 – Responsibility for Functions

Annex A – Principles of Delegation

Annex B – Responsibilities for Council Functions

As set out in Annex D.

Annex C – Joint Arrangements

Details of any joint committees established by Council

Annex D – Scheme of Delegation

Details of the scheme for delegating decisions to committees and officers.

Part 3 – Rules of Procedure

Annex E - Access to Information Procedure Rules

The rules relating to access to council information for members of the Council and members of the public as provided for in relevant legislation.

Annex F - Budget and Policy Framework Procedure Rules

Details of how the budget and policy framework is developed and operated.

Annex G - Contracts Procedure Rules

Annex H - Council Standing Orders

The rules of debate and procedure for the conduct of meetings of full Council, indicating also where these rules apply to committee and sub-committee meetings.

Annex I - Financial Procedure Rules

The Finance Policy Manual and Procurement Policy.

Part 4 – Codes and Protocols

Annex J - Code of Conduct for Councillors

The Northern Ireland Local Government Code of Conduct for Councillors issued under section 53 of the Local Government Act (Northern Ireland) 2014.

Annex K - Code of Conduct for Officers

Code of Conduct for Officers issued under section 40 of the Local Government Act (Northern Ireland) 1972.

Annex L - Protocol on Member/Officer Relations

The Local Government Employee and Councillor Working Relationship Protocol issued by the Department of the Environment

Part 5 – Members’ Allowance Scheme

Annex M - Department of the Environment – Guidance on Councillors’ Allowances

