



Comhairle Ceantair
**an Iúir, Mhúrn
agus an Dúin**

**Newry, Mourne
and Down**

District Council

Constitution

Updated: January 2017

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The Council's Constitution

Newry, Mourne and Down District Council is required, under Section 2 of the Local Government Act (NI) 2014, to prepare and keep up to date a Constitution. This Constitution sets out how the Council operates, how decisions are made and the procedures the Council follows to ensure that these are efficient, transparent and accountable to local people.

The Constitution is divided into 13 Articles and these set out the basic rules governing the Council's business. More detailed procedures and codes of practice are set out in the appendices of the Constitution.

What's in the Constitution?

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

These Articles are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council (Article 4)
- Chairing the Council (Article 5)
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Our Mission, Vision and Values

The Council has a population of around 171,500 and it is the third largest Council area in Northern Ireland. Following Local Government reorganisation in Northern Ireland, the Council formally assumed its full powers and statutory responsibilities on 1 April 2015 and its mission is to lead and serve a District that is prosperous, healthy and sustainable.

The Council aims to create opportunities for local people and local communities to thrive by supporting sustainable economic growth over time and helping people to lead fulfilling lifestyles. The Council has adopted 5 core values, which are;

- We will be citizen focused and actively encourage citizen and community engagement, as well as being a listening and responsive Council.
- We will be accountable and make decisions based on an objective assessment of need and operate in a transparent way as well as openly reporting on our performance.
- We will be collaborative and actively encourage and pursue working in partnership, and at all levels, to deliver for our district.
- We will be sustainable and will take into account the social, economic and environmental impacts of our decisions on current and future generations.
- We will be fair at all times and will proactively target actions at those who are marginalised within our community.

How the Council operates

The Council is made up of 41 Councillors who are elected every 4 years and the current Councillors will serve until May 2019.

Councillors have to agree to follow the Northern Ireland Local Government Code of Conduct for Councillors to ensure high standards in the way they undertake their duties and role as a Councillor.

All Councillors meet together as the Council. Meetings of the Council, its Committees and sub Committees are open to the public, except where confidential or exempt information is likely to be disclosed, and it is here that decisions are made on the Council's overall policies.

How decisions are made

The full Council, which is a meeting of the 41 Councillors, is held every month, although the Council, may if it so determines, decide not to hold a meeting on a summer month.

Planning Committee meetings are held on a 4 weekly basis and this Committee has its own decision making powers.

The Council has a further 5 Standing Committees – these are:

1. Active and Healthy Communities – meets every month, except July.
2. Enterprise Regeneration and Tourism – meets every month, except July.
3. Regulatory and Technical Services – meets every month, except July.
4. Strategy Policy and Resources – meets every month, except July.
5. Audit Committee – meets 4 times each year. The Audit Committee is Chaired by an independent member who has been recruited following a public recruitment exercise.

These Committees do not have their own decision making powers - they make recommendations which must be considered and agreed by full Council before being acted upon.

The Council's Employees

The Council employees, "Officers", give advice to the Councillors, implement decisions and manage the day to day delivery of its services. All Officers must ensure that they act within the law when carrying out the Council's work. The Councillor/Employee Code of Conduct is set out in Part 4 of this Constitution and this governs the relationships between employees and Councillors.

Citizen's Rights

Citizens have a number of rights in their dealings with the Council and in particular in terms of participation, rights to information and complaints. These are set out in more detail in Article 3 and include the right to:

- Vote at local elections if they are registered;
- Contact their local Councillors about matters of concern to them;
- Obtain a copy of the Constitution;
- Attend meetings of the Council and its Committees;

- See reports, background papers and records of decisions made by the Council and its Committees;
- Complain to the Council about service delivery;
- Complain to the Northern Ireland Commission for Complaints if they think the Council has not followed its procedures properly. However they should do this only after using the Council's own complaints process;
- Exercise their rights under the Data Protection Act 1998 to request their own personal data/information held by the Council;
- Exercise their rights under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 to obtain information held by the Council;
- Inspect the Council's accounts and make their views known to the external auditor during a statutory period;

The Council always welcomes participation by citizens in our 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. This Constitution complies with the requirements of the Local Government Act (NI) 2014, related Regulations and Government Guidance on constitutional matters.

1.2 The Constitution

This Constitution and all its appendices is the Constitution of Newry, Mourne and Down District Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- a) Enable the Council to provide clear political and managerial leadership to the community, in partnership with citizens, businesses and other organisations;
- b) Support the act of involvement of citizens in the process of Council decision making;
- c) Help Councillors to efficiently and effectively represent and support their constituents;
- 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 the decision makers explain the reasons for decisions;
- 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 above.

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

Article 2

Members of the Council (Councillors)

2.1 Composition and Eligibility

The Council comprises 41 members, called Councillors. Councillors are elected by the voters of each of the district electoral areas which make up Newry, Mourne and Down District Council in accordance with a scheme drawn up by the Electoral Office of Northern Ireland.

Where an individual ceases to be a Councillor, whether by resignation or through other circumstances, the vacancy on the Council will be filled by the co-option of an individual nominated by the political party in whose name the previous individual stood, at the last local general election. In the case of Councillors who are Independent Members and not Members of any political party, their vacancy will be filled by the co-option of an individual nominated by them when they stood at the last local general election.

Only registered voters of the district or those living or working there, will be eligible to hold the Office of Councillor.

2.2 Election and terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every 4 years. The next Local Government election is scheduled to be held in 2019. 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.

2.3 Role and duties of all Councillors

Key roles

- a) All Councillors will have the following key roles:
 - i. Councillors will collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions for the Council;
 - ii. Councillors will represent their communities and bring their views into the Council's decision making process;
 - iii. Councillors will deal with individual issues and act as an advocate for constituents in resolving particular concerns or grievances;
 - iv. Councillors will balance different interests identified within the district electoral area and represent that area as a whole;
 - v. Councillors will be involved in decision making;
 - vi. Councillors will be available to represent the Council on other bodies;
 - vii. Councillors will maintain the highest standards of conduct and ethics.

Rights and Duties:

- b) All Councillors will have the following rights and duties:
 - i. Councillors will have such rights of access to such documents, information, lands and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;

- ii. Councillors will not make public, information which is confidential or exempt (as defined in the Access to Information Rules in Part 3 of this Constitution), without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it;

2.4 Conduct

Councillors will at all times adopt high standards of conduct and abide by the NI Local Government Code of Conduct for Councillors issued under Section 53 of the Local Government Act (NI) 2014 and the Local Government Employee and Councillor Working Relationship protocol.

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Scheme of Allowances set out 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 detail in the Access to Information Rules in Part 3 of this Constitution.

Information

- a) Citizens have the right to:
 - i. 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;
 - ii. See reports and background papers, and any records of decisions made by the Council.

Complaints

- b) Citizens have the right to complain to:
 - i. The Council itself under its Complaints Scheme; or
 - ii. The NI Commissioner for Complaints in respect of an allegation that a Councillor (or former Councillor) has failed, or may have failed, to comply with the NI Local Government Code of Conduct for Councillors. Guidance on making a complaint to the Northern Ireland Commissioner for Complaints is available on the website of the Office of the Northern Ireland Commissioner for Complaints.

3.2 Citizens' Responsibilities

Citizens must not be violent, abusive 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

- a) The policy framework means the following plans and strategies:
 - i. Those prescribed in legislation to be adopted by the Council:
 - Community Plan
 - Area Development Plan
 - Performance Improvement Plan
 - Equality Scheme
 - Disability Action Plan
 - ii. Those other plans and strategies which the Council may decide, should be adopted by the Council as a matter of local choice:
 - Corporate Plan
 - Scheme of Delegation

Budget

- b) 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 vetting of virement limits.

4.2 Functions of the Council

Council operates a traditional Committee system where business is considered by a Committee and recommendations made to Council for approval, except for those circumstances where Council has delegated authority to a Committee. Details of the authority delegated to Committees is contained in the Council's Terms of Reference for Committees at Part 2 of this Constitution. There are circumstances in which Council has delegated its authority to exercise decisions to an Officer of Council, referenced in the Council's Scheme of Delegation for Officers contained within Part 2 of this Constitution.

There are however some matters which cannot be delegated to any Committee and must be considered by Council. Section 7(3) of the Local Government Act (Northern Ireland) 2014 states that the following must be discharged by the Council itself:

- a) Making a District Rate under the Rates (NI) Order 1977;
- b) Making a determination under Section 13 (1) of the Local Government Finance Act (NI) 2011 (affordable borrowing limit) and monitoring an amount determined under that subsection;
- c) Borrowing money; and
- d) Acquiring or disposing of land.

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's Standing Orders set out in Part 3 of this Constitution.

4.4 Responsibility for functions

The Council operates a traditional Committee structure as its form of governance.

The Terms of Reference for each Committee and the Council's decision making processes are set out in Part 2 of this Constitution.

Article 5

Chairing the Council

5.1 Title of the person chairing the Council meetings

The Chairperson of the Council will chair Council meetings.

5.2 Role and Function of the Chairperson

The Chairperson and, in their absence, the Deputy Chairperson will have the following roles and functions:

Ceremonial role

- a) The Chairperson, as the “first citizen of Newry, Mourne and Down” will uphold and preserve the dignity and honour of the Office. In particular the Chairperson will remain apolitical and attend civic and ceremonial functions as the Council and he/she determines appropriate.

The Chairperson will:

- i. Encourage and support all aspects of life in Newry, Mourne and Down by attending civic and public events;
- ii. Receive distinguished visitors to the district;
- iii. Act as host on behalf of the Council and the citizens of Newry, Mourne and Down at civic functions;
- iv. Act as a spokesperson to the local, national and international media;
- v. Support and encourage charitable and other appeals;
- vi. Promote Newry, Mourne and Down’s business, commercial, cultural and social life;
- vii. Promote Newry, Mourne and Down as a place of excellence in which to live, invest and create new jobs;
- viii. Promote Newry, Mourne and Down as a premier tourist destination.

Chairing the Council Meeting

- b) The Chairperson will be the person presiding over Council meetings.

The Chairperson will have the following responsibilities:

- i. To uphold and promote Newry, Mourne and Down, the Council’s Constitution, and to give rulings on the Constitution and Standing Orders during Council meetings;
- ii. To preside over meetings of the Council so that its business can be carried out in an effective, orderly and efficient manner and in the interests of the citizens of Newry, Mourne and Down;
- iii. To promote public awareness, knowledge and participation in the business of the Council.

Article 6

Decision making structures

The full Council, which is a meeting of the 41 elected members, takes place monthly, with the exception of one summer month if Council so determines.

The Council also holds an Annual General Meeting every year.

The Council operates a traditional Committee structure.

6.1 Role

The Council has selected a traditional Committee structure as its form of governance and organises its business through 6 Committees. Four of these Committees sit monthly, with the exception of July and they each consist of 15 Councillors. Officers advise Councillors on issues addressed by Committees. These Committees do not have any decision making powers but they review, scrutinize and make recommendations which are then considered by the full Council.

The Council's Audit Committee meets at least 4 times per year, the Chairperson of which is an independent person who is not a Councillor. The Audit Committee consists of 10 elected members. It does not have decision making powers and makes recommendations which are then considered by the full Council.

The Council also has a Planning Committee which meets on a 4 weekly basis and consists of 12 Councillors. Unlike the other Committees, the Planning Committee has full decision making powers on the matters that fall within its remit.

6.2 Form

The Council's six standing Committees are:

Planning Committee - a 12 member Committee that has full decision making powers in relation to the planning matters that fall within its remit;

Enterprise, Regeneration and Tourism Committee – a 15 member Committee that makes recommendations to the full Council;

Active and Healthy Communities Committee – a 15 member Committee that makes recommendations to the full Council;

Regulatory and Technical Services Committee – a 15 member Committee that makes recommendations to the full Council;

Strategy Policy and Resources Committee – a 15 member Committee that makes recommendations to the full Council;

Audit Committee – a 10 member Committee that makes recommendations to full Council

6.3 Proceedings of the Committees

Proceedings of the Committees shall take place in accordance with the Council's Standing Orders set out in Part 3 of this Constitution.

The Council also has the power to establish sub Committees and working groups.

6.4 Functions of the Council which are discharged by an Officer of the Council

The functions of the Council which are discharged by an Officer of the Council are set out in the Scheme of Delegation which is attached at Part 2 of the Constitution.

Article 7

Policy and other Committees

7.1 Policy and other Committees

The Council will appoint the Committees set out in Part 2 of this Constitution to make recommendations for the functions listed in each Committees Terms of Reference.

7.2 Regulatory and other Committees

The Council will appoint a Planning Committee to discharge the functions listed in the Committee's Terms of Reference.

Article 8

Joint arrangements

8.1 Joint arrangements

The Council may establish joint arrangements with one or more local authorities to exercise functions, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

Appointment of Members to joint Committees will be made by the Council in accordance with any relevant legislation and in line with the Council's Standing Orders.

8.2 Access to information

The Access to Information Rules in Part 3 of this Constitution apply.

8.3 Delegation to and from other Councils

The Council may delegate the discharge of functions to another Council or, in certain circumstances, the executive of another Council.

8.4 Contracting out

Currently no services are contracted out in their entirety.

Article 9 **Officers**

9.1 Management structure

The management structure of the Council is set out in Part 6 of this Constitution.

9.2 Functions of the Clerk and the Chief Executive of the Council

The Clerk and Chief Executive is the Council's Head of the paid service and principal adviser on policy issues.

The Clerk and Chief Executive has responsibility for implementing the Council's strategic objectives and ensuring the efficient, effective and equitable discharge of responsibilities of the Council as detailed in legislation.

Key Roles:

- To provide the leadership, vision and strategic direction necessary to manage the interface between elected members and officers and work in partnership with them to create the Council's Strategic Plan and develop policies and relationships which will fulfil the Council's objectives.
- To work in partnership with elected members to define the corporate culture of the Council and promote its core values.
- To ensure the Council meets its statutory obligations and that the highest standards of probity and good conduct are maintained at all times.
- To ensure that appropriate governance arrangements, including risk management measures, are in place.
- To actively promote both the Council and its area locally, regionally, nationally and internationally, taking account of the various communities within the area.
- To provide support to the democratic decision making processes at all levels and to promote the active participation of local people and communities in the Council's affairs.
- To lead in ensuring that the Council's strategic plans and policies are matched to a common purpose across the organisation and the area.
- To take overall responsibility for ensuring that the Council's decisions and policies are implemented.
- To promote equality of opportunity and access in service delivery and in the employment of staff.
- To ensure that service planning and delivery reflect the Council's priorities and take account of the views of citizens, communities and all other stakeholders.

- To lead on partnership working through the Community Planning process, ensuring that through this the Council maximises opportunities for the area so that its citizens attain their full potential.
- To actively foster and enhance positive relationships with all local communities, agencies and partners, including the voluntary sector and local business, as well as with other statutory bodies at regional and national levels.

9.3 Functions of the Chief Financial Officer

The Clerk and Chief Executive of the Council also holds the role of Chief Financial Officer and is responsible for leading and directing a finance function that is resourced and fit for purpose.

Key Roles:

1. To make arrangements for the proper administration of the Council's financial affairs.
2. To lead the Council in fulfilling its duty to strike a district rate on an annual basis to meet the costs of local services.
3. To keep the Council advised on a regular basis on the robustness of its rate estimates.
4. To develop and implement strategy and to resource and deliver the Council's strategic objectives sustainably and in the public's interest.
5. To ensure immediate and longer term implications, opportunities and risks are fully considered, and aligned with the Council's Corporate Financial Plan
6. To lead the promotion and delivery by the Council of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.

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 which are, in its opinion, sufficient to allow their duties to be performed.

9.5 Conduct

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

Article 10

Decision making

10.1 Responsibility for decision making

- a) The Council will issue and keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 2 of this Constitution.

10.2 Principles of decision making

Decisions of the Council will be based upon the Council's 5 core values;

- Citizen Focused – In making its decisions Council will actively encourage citizen and community engagement, as well as be a listening and responsive Council.
- Accountable – Decisions will be based on an objective assessment of need and operate in a transparent way, as well as openly reporting on performance.
- Collaborative – Council will actively encourage and pursue working in partnership and at all levels to deliver for the district.
- Sustainable – Decisions will take into account the social, economic and environmental on current and future generations.
- Fair – In making decisions Council will proactively target actions at those who are marginalised in the community.

10.3 Decisions to be taken by a qualified majority

The decisions of a Council that must be taken by a qualified majority – i.e. by 80% of the votes of the members present and voting, are set out in the Council's Standing Orders in Part 3 of this Constitution.

10.4 Decision making by the Council

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

10.5 Decision making by other Committees and sub Committees established by the Council

Council Committees and sub Committees will follow those parts of the Council's Standing Orders set out in Part 3 of this Constitution as applied to them.

10.6 Reconsideration of decisions

Decisions of the Council or a Committee of the Council will be subject to reconsideration if 15% 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:

- that the decision was not arrived at after a proper consideration of the relevant facts and issues;
- 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's Standing Orders (standing order number 21) in Part 3 of this Constitution.

Article 11

Finance, Contracts and Legal Matters

11.1 Financial and Contract management

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations Procedure 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 Council's Scheme of Delegation contained within this Constitution at Part 2 confirms those officers of Council authorised to institute, defend or participate in legal proceedings on behalf of Council.

11.4 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Clerk and Chief Executive of the Council or some other person duly authorised by the Council unless any enactment otherwise authorises or requires.

11.5 Common Seal of the Council

In compliance with Section 120(1) to (4) of the Local Government (Northern Ireland) Act 1972 the Council shall provide for the safe custody of its Common Seal which shall be used under authority of a resolution of Council and in accordance with Council's Standing Orders, contained within this Constitution at Part 3.

Every instrument to which the Common Seal is affixed shall be signed by the Chairperson/Vice-Chairperson and Chief Executive of Council.

Article 12

Review and Revision of the Constitution

12.1 Duty to keep the Constitution up to date

The Clerk and 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. The Council will perform this role with support of such Officers as the Council considers necessary.

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

Publication of the Constitution

13.1 Suspension of the Constitution

Limit to suspension

- a) The Articles of this Constitution may be 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.

Procedure to suspend

- b) A motion to suspend any Procedure Rules will not be moved without notice unless it least one half of the total number of Councillors are 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.

Procedure Rules capable of suspension

- c) The following Procedure Rules may be suspended in accordance with Article 12.1.
- All of Standing Orders with the exception of the following:
Standing Order 20.3; 21; 22 and 23. Suspension must have the support of a qualified majority vote within the meaning of Section 40 of the Local Government Act (NI) 2014.

13.2 Interpretation

The ruling of the Chairperson 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.

13.3 Publication

A printed copy of this Constitution will be given to each Member of the Council upon delivery to the Clerk and Chief Executive of the Council of that individual's declaration of acceptance of Office on the Member first being elected to the Council. Copies of the Constitution will be made available at the Council's Headquarters in Downpatrick and Newry and will be published on the Council's website.