

Part 1

Summary, Explanation and Articles of the Constitution

Summary and Explanation

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Summary and Explanation

Mid Ulster District Council is required, under section 2 of the Local Government Act (Northern Ireland) 2014, to prepare and keep up to date a Constitution.

This constitution sets out how Mid Ulster District Council (MUDC) operates in the delivery of its full suite of functions, sets out how decisions are made and the procedures in place to ensure everything the Council does is efficient, transparent and accountable to all those who reside and avail of services within the district. Some of the information and processes as contained within this constitution are required as a matter of law, while others are a matter for Council to determine in line with its operational practices.

The constitution contains 15 Articles within which information is provided on how the council approaches and does its business within defined boundaries. Part 2 of the constitution sets out more detailed procedures and codes of practice within distinct Codes and Protocols.

In the event of a conflict in any respect between the Articles and the Annexes to the Constitution, the Council will have regard to the provisions set out in the Articles.

Article 1 - The Constitution

This Article sets out the fundamental provisions of the Constitution. It confirms that the Council will act within the law and the provisions of this Constitution. It defines those documents which comprise the Constitution including the Council's Standing Orders and the Northern Ireland Local Government Code of Conduct for Councillors.

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 (including all its appendices) is the Constitution of Mid Ulster District Council.

1.3 Purpose of the Constitution

The purpose of this 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 Council 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 the decision-makers 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 above.

The Council will monitor and evaluate the operation of the Constitution. The Council considers its constitution as being an integral document on informing and shaping how it does business within and across the district. For this reason it is important that the constitution is kept up to date and relevant. This will be by:

- Regular monitoring to maintain accuracy of information contained;
- Annual review following each financial year, but not later than 30 April; and
- A formal review at the start of a new Council term following a Local Election.

Article 2 - Members of the Council

2.1 Composition and eligibility

Composition: The Council comprises 40 elected members, called councillors. Councillors are elected by the voters of each district electoral area 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.

Eligibility: Only registered voters of the district or those living or working there will be eligible to hold the office of councillor with Mid Ulster District Council

2.2 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 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 local election.

2.3 Roles 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.
 - (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, land 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

A copy of the Northern Ireland Local Government Code of Conduct for Councillors is set out in Part 4 of this Constitution.

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members Allowances Scheme 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 4 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) attend meetings of the executive when key decisions are being considered (please note that Mid Ulster Council does not currently operate within executive arrangements);
 - (iii) find out from the forward plan what key decisions will be taken by the executive and when; (please note that Mid Ulster Council does not currently operate within executive arrangements); and
 - (iv) see reports and background papers, and any records of decisions made by the Council and the executive, except where release is prevented by law, exempt for release under the terms of the Freedom of Information Act 2000, or is otherwise properly considered to be protected from disclosure. Disclosure will also be subject to regulations made under Sections 34-35 of the Local Government (NI) Act 2014 on *Meetings and Access to Information*.

Complaints.

- (b) Citizens have the right to complain to:
- (i) the Council itself under its complaints scheme; or
 - (ii) the Northern Ireland Commissioner for 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. Guidance on making a complaint to the Northern Ireland Commissioner for Complaints is available on the website for 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. When attending meetings of the council or committees citizens must not behave improperly, offensively or interrupt the business of the meeting as such action will result in exclusion from the meeting.

Article 4 - The Council

4.1 Meanings

Policy Framework

- (a) The policy framework means the following plans and strategies of the Council to aid the delivery of its functions and services in the district, the list will be continually reviewed as the council develops its business:

	Plan/ Strategy
1	Mid Ulster Council Corporate Plan
2	Community Plan
3	Local Development Plan
4	Performance Improvement Plan

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 setting of virement limits. The Council will be responsible for the adoption of its annual budget and associated policy framework.

4.2 Functions of the Council

Council operates a traditional committee system, where business is initially considered by one of its five committees and recommendations of such decisions are subsequently taken to full Council for approval. There are limited circumstances in which the Council has delegated its authority to exercise decisions to an officer of Council, referenced in the *Council's Scheme of Delegation for Officers* contained in this constitution as Annex 5 within Part 2.

Detail on authority delegated to committees is contained in the council's, *Terms of Reference & Delegation to Committees* document. Council has not elected to operate Executive Arrangements.

There are however some matters which cannot be delegated to any committee and

must be considered by Council. Section 7 of the Local Government (NI) Act 2014 states that the following must be discharged by the Council itself:

- (i) Making a district rate under the Rates (Northern Ireland) Order 1977
- (ii) Making a determination under section 13(1) of Local Government Finance Act (Northern Ireland) 2011 (affordable borrowing limit) and monitoring an amount determined
- (iii) Borrowing money, and
- (iv) Acquiring and disposing of land

4.3 Council meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings; and
- (c) special (extraordinary) meetings

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

4.4 Responsibility for functions

Responsibility for council functions is set out in Part 2 of this constitution.

Article 5 - Chairing the Council

5.1 Title of the person chairing Council meetings

Meetings of council will be chaired by the Chair of Mid Ulster District Council.

5.2 Role and function of the Chair

The Chair of Mid Ulster District Council and, in their absence, the Deputy Chair will have the following roles and functions:

Ceremonial role

(a) The Chair will normally carry out the ceremonial duties of the Council.

Chairing the Council meeting

(b) The Chair will be the person presiding over Council meetings in line with Council Standing Orders. In reference to Standing Orders, the ruling of the Chair as to the interpretation, construction or application of any Standing Order or as to any proceedings of the Council, shall not be challenged at any meeting of the Council.

Article 6 – Decision-making structures

6.1 Role

Mid Ulster Council operates a Traditional Committee System as provisioned for within Section 19 of the Local Government (NI) Act 2014. The Council does not operate 'executive arrangements'. A Terms of Reference & Delegation to Committees is set out as Annex 2 in Part 2 of this Constitution. This document sets out provisions applicable to all committees, their constitution, positions of responsibility, quorum, size, functions, reporting to council and delegated authority, where provided by Council. Annex 5 in Part 2 of this constitution is the Scheme of Delegation for Officers. Council committees are:

- Audit Committee
- Development Committee
- Environment Committee
- Planning Committee
- Policy & Resources Committee

6.2 Form

Council's five committees consider business in line with its area of focus/ functions brought forward to it by officers of council. Recommendations made following the consideration of business are then brought forward for adoption at the next available monthly meeting of full Council, unless authority has been delegated on such matters.

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.

6.4 Responsibility for Functions

Responsibility for council functions is set out in Part 2 of this constitution.

Article 7 – The Executive

Mid Ulster District Council has not resolved to operate a system of Executive Arrangements. This Article will be updated should it elect to do so.

Article 8 – Overview and Scrutiny Arrangements

Mid Ulster District Council has not resolved to operate a system of Executive Arrangements and hence formal *Overview and Scrutiny Arrangements* are not required. This Article will be updated should Council resolve to do so.

Article 9 - Policy and Other committees in traditional arrangements

9.1 Policy and other committees

Annex 2 within Part 2 of this Constitutions sets out the Council's scheme of administration/ terms of reference and delegation for committees. This document confirms that the Council operates a traditional committee system involving 5 committees which all report to Council.

The Policy and Resources Committee has been reserved the functions of finance, personnel and other governance matters, relating to the administration and management of Council.

The Policy and Resources Committee also has authority to consider business not coming within the remit of any other committee of council. This forms part of its Terms of Reference.

Article 10 - Joint Arrangements

10.1 Joint arrangements

Sections 9 and 11 of the Local Government (NI) Act 2014 provides for two or more councils discharging any of their functions jointly which can be undertaken by a joint committee or by an officer of one of the Councils. Mid Ulster District Council has the following Joint Committees in place (the list will be updated as the Council develops its business):

Committee	Description
Tullyvar Joint Committee	Joint committee with Fermanagh & Omagh District Council to provide management of Tullyvar Landfill Site, Aughnacloy. The committee comprises 5 elected members from each council.

10.2 Access to information

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

10.3 Delegation to and from other Councils

Mid Ulster District Council can at any time arrange for the discharge of one or a number of its functions under the auspices of Section 8 of the Local Government (NI) Act 2014. The Council's Scheme of Delegation confirms authority delegated to other Councils.

10.4 Contracting out

No contracts, deemed to be of significance, are currently in place for the delivery of services and/or functions on behalf Mid Ulster District Council for which it is responsible. :

Article 11 - Officers

Terminology

11.1 Management structure

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

11.2 Functions of the clerk to the Council

The Clerk/ Chief Executive is the Head of Paid Service and is responsible for the overall administration and management of all services delivered by Mid Ulster District Council with the support of those holding senior management positions as shown in Part 6.

11.3 Functions of the chief financial officer

To make arrangements as necessary for the proper administration of council's financial affairs under sections 1-3 of the local Government Finance Act (NI) 2011.

The Chief Financial Officer is also required to:

- keep proper accounting records that are up-to-date; and
- take reasonable steps for the prevention and detection of fraud and other irregularities.

Mid Ulster District Council has appointed the Chief Executive as the Chief Financial Officer.

11.4 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.

11.5 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 of this Constitution.

Article 12 – Decision-making

12.1 Responsibility for decision-making

The council will keep up to date a record of what part of the council or individual has responsibility for particular types of decisions relating to particular services, areas and functions of the council. This information is contained within Part 2, Annex 5 of this overall document.

12.2 Principles of decision-making

In considering recommendations and proposals being brought before Council all decisions of Council and recommendations of committees will be made in accordance with the following principles:

1. proportionally (i.e. the action must be proportionate to the desired outcome);
2. due consultation and the taking of appropriate advice from Officers;
3. respect for human rights;
4. a presumption in favour of openness;
5. clarity of aims and desired outcomes;
6. Wednesbury reasonableness, i.e. taking account of all relevant considerations and discounting all irrelevant considerations; and
7. explaining what options were considered and giving reasons for the decision.

12.3 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 per cent of the votes of the members present and voting, are set out in the Council Standing Orders` in Part 3 of this Constitution.

12.4 Types of decision

This Article applies only where executive arrangements operate.

Decisions reserved to full Council

- (a) Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.

Key decisions

- (b) A key decision means a decision under executive arrangements, which is likely—
 - (i) to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function to which the decision relates; or
 - (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more electoral areas in the local government district of the relevant council.

- (c) A decision-maker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 3 of this Constitution.

12.5 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.

12.6 Decision-making under executive arrangements

Mid Ulster District Council has not resolved to operate a system of Executive Arrangements. This section will be updated should it elect to do so.

12.7 Decision-making by overview and scrutiny committees

Mid Ulster District Council has not resolved to operate a system of Executive Arrangements. This section will be updated should it elect to do so.

12.8 Decision-making by other committees and sub-committees established by the Council

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

12.9 Reconsideration of decisions

Decisions of the council or a committee may be subjected to reconsideration under Standing Orders 21 and 24 as contained within Part 3 of this Constitution. In the case of Standing Order 24 recommendations of a committee may not be reconsidered or a Call-in.

With specific reference to the Call-in Process, 15 per cent of the members of Council are required to present to the Clerk/ Chief Executive a requisition on either or both of the following grounds as specified in section 41(1) of the Local Government Act (Northern Ireland) 2014:

- 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.

Article 13 - Finance, Contracts and Legal Matters

13.1 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.

13.2 Contracts

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

13.3 Legal proceedings by and against the Council

The Councils Scheme of Delegation contained within this constitution as Annex 5, confirms those officers of council authorised to institute, defend or participate in legal proceedings on behalf council.

13.4 Common Seal of the Council

In compliance with Section 120 (1) to (4) of Local Government (NI) Act 1972 the council shall provide for the safe custody of its common seal which shall be used under authority of a resolution of the council; and in accordance with standing orders of the council.

Every instrument to which the council is affixed shall be signed by the Chair and Chief Executive of council.

Article 14 - Review and Revision of the Constitution

14.1 Duty to keep the Constitution up to date

The Council will monitor and evaluate the operation of the Constitution. The Council considers its constitution as being an integral document on informing and shaping how it does business within and across the district. For this reason it is important that the constitution is kept up to date and relevant. This will be by:

- Regular monitoring to maintain accuracy of information contained;
- Annual review following each financial year, but not later than 30 April; and
- A formal review at the start of a new Council term following a Local Election.

14.2 Changes to the Constitution

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

Article 15 - Publication of the Constitution

15.1 Suspension of the Constitution

Limit to suspension

- (a) 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.

Procedure to suspend

- (b) 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.

Procedure Rules capable of suspension.

- (b) The following Procedure Rules may be suspended in accordance with Article 15.1 and in line with the conditions pertaining to Council Standing Order No. 28: *Suspension and Amendment to Standing Orders*.

15.2 Interpretation

The ruling of the Chair 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.

15.3 Publication

This constitution is published on the Council's website (www.midulstercouncil.org) and is available for inspection at the Council Offices.