

# DRAFT FRAMEWORK FOR COUNCIL CONSTITUTION

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# Part 1 – Summary, Explanation and Articles of the Constitution

## Summary and Explanation

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

*A Council should set out a short and accessible description of its Constitution and method of governance.*

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

### Article 1 - The Constitution [Required Direction 1a]

*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.*

*One of the most important aspects of the Article is the statement of purpose. This should convey clear and positive messages about the purpose of local government in general and also in relation to the specific locality. It should relate to the community leadership role of local government, and show how the arrangements set out in the Constitution will support this. These points are discussed in more detail below.*

#### 1.1 Powers of the Council [Required: Direction 1a]

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

#### 1.2 The Constitution [Required: Direction 1a]

This Constitution (including all its appendices) is the Constitution of [insert name] Council.

#### 1.3 Purpose of the Constitution [Required: Direction 1a]

*The statements of purpose should reflect the ethos, aims and objectives of the Council. They should complement its corporate aims and objectives and the key aims of its Community Plan. Accordingly, they must be arrived at through debate within each Council. The following text is therefore only an example.*

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 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.

*Having agreed the overall purpose of the Constitution, the Council must ensure that the articles, procedure rules and protocols that follow reflect and deliver the statements of purpose contained within the Constitution. The statements of purpose must therefore be given reality in the Constitution rather than just be a set of grand statements which have no connection with the operation of the Council.*

#### **1.4 Interpretation and Review of the Constitution [Required: Direction 1g]**

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**

*This Article sets out the composition of the Council, eligibility to stand for election as a member of the Council and the form of election used.*

*The Article also contains a paragraph in which Councils can provide a statement of the roles and responsibilities of members of the Council. This reinforces the fact that all members, whatever their formal position in the Council and party political system, share common roles and responsibilities.*

*The Article also deals with the rights and duties of members, especially as they affect access to land, buildings, documents and information and any confidentiality requirements surrounding the latter.*

#### **2.1 Composition and eligibility [Required: Direction 1b]**

The Council comprises [*insert number*] 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.

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 **[Required: Direction 1b]**

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 election.

## 2.3 Roles and duties of all councillors **[Not required by legislation]**

*This paragraph is intended to clarify the key roles and duties of councillors. Councils should determine locally meaningful and appropriate descriptions of the key roles and duties. Councils should ensure that this paragraph reflects the view of the Council as a corporate body of all elected councillors, and therefore that all councillors have a responsibility for the good governance of the council. The definition should reinforce the community leadership role of councillors and reflect a councillor's representative role and their position to act as a link and point of mediation between the council and the community.*

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 [Required: Fulfils Section 2(1) (b) of the Act – Code of Conduct for Councillors]**

*This paragraph should contain a statement of the councillors' duty to adopt high standards of conduct in order to give expression to the Northern Ireland Local Government Code of Conduct for Councillors, issued under section 53 of the Local Government Act (Northern Ireland) 2014.*

## **2.5 Allowances [Required: Direction 1e]**

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**

*Councils and their constitutions should be outward looking and seek to engage with the public wherever possible. Setting out what citizens can expect from their Council and what rights they have is therefore an important part of the Constitution. However, with rights come responsibilities and it is also the role of the Constitution to show how the Council expects to be treated in return.*

### **3.1 Citizens' rights [Required: Direction 1c]**

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; **[Required: Direction 4a]**
- (iv) see reports and background papers, and any records of decisions made by the Council and the executive. **[Required: Direction 4b]**

## Complaints **[Not required by legislation]**

(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.

## **3.2 Citizens responsibilities** **[Required: Direction 1c]**

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**

*In drawing up the Constitution it is important that careful consideration is given to the role of the Council. In executive forms of governance, the Council as a whole retains responsibility for regulatory and quasi-judicial functions and will have a role in holding the executive to account. Under a committee system of governance, the Council is responsible for delegating functions and will have a role in holding policy committees to account.*

*A list of the statutory and recommended plans and strategies which will make up the policy framework appears in the text. However, Councils may wish to exercise their local discretion in adding to these lists.*

*The functions reserved for Council decisions, under executive arrangements, are defined in this Article to make clear what authority the Council has in relation to other parts of the Constitution. Councils may wish to add discretionary roles they consider essential for the Council to have, for example to represent the views of the local community on matters of significance.*

## 4.1 Meanings

### Policy Framework **[Not required by legislation]**

(a) The policy framework means the following plans and strategies:-

*[Councils should list all those plans and strategies that are relevant to their functions which form the policy framework. These fall into three separate groups:*

- (i) those required by Schedule 3 to the Local Government (Executive Arrangements) Regulations (Northern Ireland) 2014;*
- (ii) those other plans and strategies prescribed in legislation to be adopted by the Council;*
- (iii) other plans and strategies, which the Council may decide, should be adopted by the Council as a matter of local choice.*

### Budget **[Required: Direction 1f]**

(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.

## 4.2 Functions of the Council

### 4.3 Council meetings **[RequiredL Fulfils Section 2(1) (a) of the Act – Standing Orders & Direction 2a]**

There are three types of Council meeting:

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

*[In Councils which do not operate executive arrangements]* **[Required: Fulfils Section 2(1) (a) of the Act – Standing Orders & Direction 2a]**

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

*[In Councils which operate executive arrangements]*

The Council will maintain the tables in Part 2 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the executive.

### Article 5 - Chairing the Council

#### 5.1 Title of the person chairing Council meetings **[Required: Direction 1d]**

*This will be Chairperson, Mayor or Lord Mayor depending on the status of the Council.*

#### 5.2 Role and function of the *Chairperson or Mayor or Lord Mayor* **[Required: Direction 1d]**

The [Chairperson] [Mayor] [Lord Mayor] of the Council and, in their absence, the [Deputy Chairperson] [Deputy Mayor] [Deputy Lord Mayor] will have the following roles and functions:

##### Ceremonial role

- (a) *Whilst the Chairperson will normally carry out the ceremonial duties of the Council, this is entirely a matter of local choice. This paragraph should set out the Council's arrangements for carrying out ceremonial duties.*

##### Chairing the Council meeting **[Required: Fulfils Section 2 (1) (a) of the Act – Standing Orders]**

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

The Chairperson will have the following responsibilities:

*Councils should set out details of the responsibilities of the Chairperson in relation to both meetings of the Council and as a representative of the Council.*

### Article 6 – Decision-making structures

*The Council should insert details of the decision-making structures it has selected from the options provided in section 19 of the Local Government Act (Northern Ireland) 2014. This will take the form of either the traditional committee structure or the cabinet-style or streamlined committee structure of executive decision-making.*

#### 6.1 Role **[Required: Fulfils Section 2 (1) (a) of the Act – Standing Orders & Direction 2a]**

*Councils should set out the role of committees [and the executive] in relation to the discharge of the Council's functions.*

## 6.2 Form **[Required: Fulfils Section 2(1) (a) of the Act- standing orders& Direction 2a]**

*Councils should describe the form their decision-making structures take i.e. committee or executive arrangements (the form of executive arrangements adopted should be specified along with the number of members of either the cabinet-style executive or each committee in a streamlined committee executive).*

## 6.3 Proceedings of the committees [and executive] **[Required: Fulfils Section 2(1) (a) of the Act- standing orders& Direction 2a]**

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

*[In councils that operate executive arrangements the following statement should be included]*

Proceedings of the executive shall take place in accordance with the Executive Procedure Rules set out in Part 3 of this Constitution.

## Article 9

### Policy and other committees [in traditional arrangements]

*[In councils which do not operate executive arrangements]*

*Under traditional arrangements, the implementation of the Council's budget and policy framework of regulatory functions is undertaken by a limited number of policy committees with powers delegated from the full Council. The Council may also establish a committee or committees to deal with personnel and related matters since this is a Council, rather than an executive function. There is no legally separate executive.*

#### 9.1 Policy and other committees **[Not required by legislation]**

The Council will appoint the committees set out in the left hand column of the table Responsibility for Council Functions in Part 2 of this Constitution to discharge the functions described in the right hand column of that table.

#### 9.1 Regulatory and other committees **[Not required by legislation]**

The Council will appoint the committees set out in the left hand column of the table Responsibility for Council Functions in Part 2 of this Constitution to discharge the functions described in the right hand column of that table.

## Article 10 - Joint Arrangements **[Required: Direction 2c]**

*Joint arrangements (including joint committees) are well established within local government, although their use has tended to be concentrated on the delivery of functions where economies of scale make sharing practicable. Delegation to other Councils is not widely employed.*

*To avoid frequent amendments to this Article as new possibilities become available, Councils may wish to build up relevant protocols in later Parts of the Constitution.*

### **10.1 Joint arrangements**

*Councils should set out details of their ability to establish joint arrangements (including under executive arrangements) and who may appoint members to any joint committees.*

### **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 [Not required by legislation]**

*Councils should set out details of their ability to delegate the discharge of functions to another Council or, in certain circumstances, the executive of another Council.*

### **10.4 Contracting out [Not required by legislation]**

*Councils should set out details of each service/function that has been contracted out and the organisation responsible for the delivery of that service/function.*

## **Article 11 - Officers**

### **Terminology [Required: Direction 3a]**

*The use of the word "officers" means all employees and staff engaged by the Council to carry out its functions. This word has also been used instead of "employees" to cover those engaged under short term, agency or other non-employed situations. However, Councils should, in this Article, use the term they consider most appropriate, whether this is "officers", "staff" or "employees".*

### **11.1 Management structure [Required: Direction 3c]**

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

### **11.2 Functions of the clerk to the Council [Required: Direction 3b]**

*Councils should set out the key functions of the clerk to the Council in relation to the administration of the Council.*

### **11.3 Functions of the chief financial officer [Required: Direction 3b]**

*Councils should set out the key functions of the chief financial officer in relation to the management of the Council's financial affairs.*

### **11.4 Duty to provide sufficient resources to the chief financial officer [Not required by legislation]**

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 [Required: Direction 3e]**

Officers will comply with the Officers' Code of Conduct and the Local Government Employee and Councillor Working Relationship Protocol set out in Part 5 of this Constitution.

**Required Direction 3d – rules governing the recruitment, appointment, dismissal and disciplinary action for officers –required in the direction suggest including here.**

## **Article 12 – Decision-making [Required: Fulfils Section 2(1) (a) of the Act – standing orders]**

### 12.1 **Responsibility for decision-making**

Each Council may determine whether *to delegate decisions to committees, sub-committees and/or officers, or to joint committees or joint arrangements or other councils. Those delegations must be recorded in the Council's Constitution which must be kept up to date.*

**[Required: Direction 1g]**

*Under executive arrangements, decisions on specified matters are for the executive to make, and it is for the executive to decide whether to delegate the power to make any of those decisions. Only the executive may decide to delegate executive functions to joint committees or other Councils. Where it does so, those delegations must also be recorded in the executive's scheme of delegations in the Constitution. Though changes to the Constitution must be made by the Council, changes to the executive scheme of delegations are for the executive to decide.*

### 12.2 **Principles of decision-making [Required: Direction 2b]**

*Councils should set out details of the principles it will observe when making decisions.*

### 12.3 **Decisions to be taken by a qualified majority [Required: Fulfils Section 2(1) (a) of the Act- standing orders& Direction 2a]**

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 [*council to insert relevant standing order number*] in Part 3 of this Constitution.

### 12.5 **Decision-making by the Council [Required: Fulfils Section 2(1) (a) of the Act – standing orders]**

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

### 12.8 **Decision-making by other committees and sub-committees established by the Council [Required: Fulfils Section 2(1) (a) of the Act – standing orders]**

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 **[Required: Fulfils Section 2(1) (a) of the Act – standing orders]**

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:

- 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 Standing Orders [*council to insert relevant standing order numbers*] in Part 3 of this Constitution.

## Article 13 - Finance, Contracts and Legal Matters

*This Article refers to the Council's Financial and Contract Procedure Rules and how the Council will deal with legal matters.*

### 13.1 Financial management **[Required: Direction 1f]**

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 **[Required: Direction 1f]**

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 **[Required: Direction 1f]**

*Councils should set out details of who is authorised to institute, defend or participate in legal proceedings on behalf of the Council.*

### 13.4 Authentication of documents **[Required: Direction 1f]**

*Councils should set out their arrangements for the authentication of documents necessary to any legal procedures and contracts.*

### 13.5 Common Seal of the Council **[Not required by legislation]**

*Councils should set out its arrangements in relation to the safe keeping of the Council's Seal and the sealing of documents.*

## Article 14 - Review and Revision of the Constitution

### 14.1 Duty to keep the Constitution up to date **[Required: Direction 1g]**

*Legislation does not specify either the method or frequency of review or the reporting arrangements. However, a Council will wish to set out the monitoring and review method that it will adopt for the operation of the Constitution to ensure the aims and principles of the Constitution are up to date and are given full effect.*

*Amendments to the Constitution will be necessary where the Council changes from one form of governance to another.*

### 14.2 Changes to the Constitution **[Required: Direction 1g]**

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

*Councils may wish to adopt procedural rules so that members have a clear procedure when they wish to propose to the Council that the Constitution is changed. Similarly, there will need to be procedures to ensure that proposals for changes to the Constitution are not used to overcome disputes between the executive and other councillors, or even within the executive itself.*

## Article 15 - Publication of the Constitution

### 15.1 Suspension of the Constitution [Legal Services to advise]

*This Article specifies that the articles of the Constitution may not be suspended. This provides certainty and stability to the fundamental aspects of the Council's governance. However, it does provide for rules of procedure to be suspended provided this is to achieve an effect consistent with the statements of purpose of the Constitution set out in Article 1. This might apply, for example, to rules of debate in Council where particular circumstances arise. Councils should design their Constitution to be sufficiently flexible to take account of changing circumstances, particularly in the light of experience gained during the transition period.*

#### 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.

- (c) The following Procedure Rules may be suspended in accordance with Article 14.1 [Council to specify].

### 15.2 Interpretation STATUS??

The ruling of the [Chairperson] [Mayor][Lord 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.

### 15.3 Publication STATUS??

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 1 – Principles of Delegation **[Required: Direction 2b]**

Annex 2 – Responsibilities for Council Functions **[Required: Fulfils Section 2(1) (a) of the Act – standing orders]**

*Councils should insert details of each committee established by the council and the powers, duties and functions of those committees*

Annex 4 – Joint Arrangements **[Required: Direction 2c]**

*Councils should insert details of any joint committees established by the council*

Annex 5 – Scheme of Delegation **[Required: Direction 2b]**

*Councils should insert details of their scheme for delegating decisions to committees and officers.*

## Part 3 – Rules of Procedure

**Access to Information Procedure Rules [Required: Direction 4b]**

*Councils should insert here the rules relating to access to council information for members of the Council and members of the public as provided for in relevant legislation.*

**Budget and Policy Framework Procedure Rules [Required: Budget Framework Direction 1g] [Policy Framework Not required by legislation]**

*Developing the budget and policy framework will be a key corporate process in all councils. Councils should insert here details of how their budget and policy framework is developed and operated.*

**Contracts Procedure Rules [Required: Direction 1g]**

*Councils should insert here their contract procedure rules.*

**Council Standing Orders [Required: Fulfils Section 2(1) (a) of the Act – standing orders]**

*Councils should insert here 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.*

**Financial Procedure Rules [Required: Direction 4a]**

*Councils should insert here the financial procedure rules and regulations appropriate to the decision making arrangements they are operating, drawing on the models provided by CIPFA.*

## Part 4 – Codes and Protocols

**Code of Conduct for Councillors [Required: Section 2(1) (b) of the Act – Code of Conduct for Councillors]**

*Councils should insert the Northern Ireland Local Government Code of Conduct for Councillors issued under section 53 of the Local Government Act (Northern Ireland) 2014.*

**Code of Conduct for Officers [Required: Direction 3e]**

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

**Protocol on Member/Officer Relations [Required: Direction 3e]**

*Councils should insert the Local Government Employee and Councillor Working Relationship Protocol issued by the Department of the Environment*



**Part 5 – Members’ Allowance Scheme [Required: Direction 1e]**

*Councils should insert their councillors’ allowances scheme.*

**Part 6 – Officers’ Management Structure [Required: Direction 3c]**

*Councils should insert a description of the officers’ management structure and details of the functions of departments and/or business or service units.*

*This should give sufficient information to allow a person outside the Council to understand how and where functions are carried out, but should not be so detailed as to reveal personal information about staff nor require revision after minor departmental restructuring.*