



CONSTITUTION OF ANTRIM AND NEWTOWNABBIEY BOROUGH COUNCIL

Contents

Introduction	4
Part 1 – Summary, Explanation and Articles of the Constitution, Summary and Explanation	4
Article 1- The Constitution	4
The powers of the Council and the purpose of the Constitution	
Article 2- Members of the Council	5
The composition of the Council, the roles and functions of all Councillors, conduct and the scheme of allowances payable	
Article 3- Citizens and the Council	7
The rights and responsibilities of citizens	
Article 4- The Council	7
The Council's management structure, the function of chief officers, conduct and employment	
Article 5- Chairing the Council	8
The role of the Mayor	
Article 6- Decision-making structures	8
Details of the decision-making structure adopted by the Council	
Article 7- Committees	8
Outline of Committee Structures	
Article 8- Joint Arrangements	9
The operation of joint committees	
Article 9- Officers	9
The Council's management structure, the function of chief officers, conduct and employment	
Article 10- Procedures for decision-making	10
Responsibility for decision-making, principles of decision-making, the role of the Council and committees	
Article 11- Finance, Contracts and Legal Matters	10
The Council's arrangements for the conduct of its financial matters, the making of contracts and the handling of legal matters	
Article 12- Review and Revision of the Constitution	11
The arrangements for the review and revision of the Constitution	

Article 13- Suspension of the Constitution	11
Matters relating to the suspension of the Constitution, its interpretation and publication	
Part 2 – Responsibility for Functions	12
Principles of Delegation, Responsibilities for Council Functions	
• Councils Scheme of Delegation	12
• Scheme of Delegation for Planning	20
• Councillors election results	23
• Council's decision making structure	23
Part 3 – Rules of Procedure	24
• Contracts Procedure Rules (Tenders and Procurement)	24
• Council Standing Orders	24
• Financial Regulations.....	24
Part 4 – Codes and Protocols	25
• Code of Conduct for Councillors	25
• Code of Conduct for Officers and Local Government Employee and Councillor Working Relationship Protocol.....	25
Part 5 – Members Allowance Scheme	26
• Councillors Allowances and Expenses.....	26
Part 6 – Officers Management Structure	27
Appendix 1 - Legislation in respect of which functions are delegated to Building Control	28

Introduction

Antrim and Newtownabbey 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.

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

This is a living document and along with its supporting documents will be reviewed on a regular basis to ensure they remain up to date.

Under section 2 of the Local Government Act (Northern Ireland) 2014, the Council has to prepare and keep up to date a Constitution.

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

The Council's Constitution is made up of the following documents:

- Code of Conduct for Councillors
- Code of Conduct for Officers
- Local Government Employee and Councillor Working Relationship Protocol
- Standing Orders (which is made up of the Protocol for the Operation of the Planning Committee)
- Scheme of Delegation
- Scheme of Delegation for Planning
- Budget and Policy Framework Procedure Rules
- Contracts Procedure Rules
- Financial Procedure Rules

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 documents referred to) is the Constitution of Antrim and Newtownabbey 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 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.

Article 2 - Members of the Council

2.1 Composition and eligibility

The Council comprises 40 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.

To be eligible to stand for future local council elections as a candidate, you must, on the day you are nominated, be:

- at least 18 years old

- a British or Irish citizen, or a citizen of another member state of the European Union or the Commonwealth
- not be disqualified from being a Councillor

In addition, you must fulfil one of the following three conditions:

- be registered to vote in the district in which you are standing
- have lived in the area for one year preceding the day of the election
- have worked in the area for that period

The majority of people become councillors as a result of joining a political party. However, some people stand as independents (candidates who do not belong to any political party) or as pressure groups.

A list of the most recent election results outlining which members were elected to the different electoral areas can be found on the Councils website.

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 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 Positions of Responsibility

Nominations to positions of responsibility will be in accordance with Schedule 1 of the Local Government Act (Northern Ireland) 2014. Schedule 1 of the 2014 Act states that positions of responsibility should be filled using the calculation included in Schedule 1 unless the Council decides by qualified majority (80%) to apply one of the other methods set out in Schedule 1, Part 2 of the 2014 Act.

2.4 Aldermen

The election of Aldermen will be in accordance with Regulation 4 of the Local Government (Transitional, Incidental, Consequential and Supplemental Provisions) Regulations (Northern Ireland) 2015.

2.3 Conduct of Councillors

Members are bound by the Councillors Code of Conduct which outlines the high standards of conduct they must adhere to (Part 4 contains the Code of Conduct for Councillors).

2.4 Allowances

Councillors will be entitled to receive allowances in accordance with the Members Allowances Scheme set out in Part 5.

Article 3 - Citizens and the Council

3.1 Citizens' rights

Information

Citizens have the right to:

- 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;
- see reports and background papers, and any records of decisions made by the Council.

3.2 Citizens responsibilities

Citizens must not be violent, abusive or threatening to Councillors or officers and must not willfully harm property owned by the Council, Councillors or officers.

Article 4 - The Council

4.1 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.

Details of the Council's budget can be found at Part 3.

4.2 Council meetings

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 at Part 3.

4.3 Responsibility for functions

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

Article 5 - Chairing the Council

5.1 Title of the person chairing Council meetings

The Chair of the Council meetings will be the Mayor, unless another suitable person is required to stand in on their behalf.

5.2 Role and function of the Mayor

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

- presiding over council meetings and, in the case of equality of votes, he has a second or casting vote.
- promoting and raising awareness of the Council's main objectives and priority issues
- encouraging and supporting all aspects of life in Antrim and Newtownabbey by attending civic and public events.
- receiving distinguished visitors to the Borough.
- acting as host on behalf of the council and the citizens of Antrim and Newtownabbey at civic functions.
- acting as a spokesperson to the local, national and international media.
- providing an appropriate response on behalf of Antrim and Newtownabbey at times of local, national and international catastrophe.
- supporting and encouraging charitable and other appeals as appropriate.
- promoting Antrim and Newtownabbey's business, commercial, cultural and social life.
- promoting Antrim and Newtownabbey as a place of excellence in which to live, to do business and as a tourist destination.

Article 6 – Decision-making structures

Details of the Council's governance structure is set out in Part 2.

Proceedings of the committees shall take place in accordance with the Council's Standing Orders.

Article 7 – Committees

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

These are:

- Policy & Governance Committee
- Operations Committee
- Community Development Committee
- Economic Development Committee
- Planning Committee
- Audit Committee

The functions for which each committee is responsible for is detailed in the Scheme of Delegation, Part 2 of this Constitution.

Article 8 - Joint Arrangements

8.1 Joint arrangements

The Council will establish joint arrangements when and if they are required. Details of which will be made known when established.

8.2 Access to information

Details of the Councils Publication Scheme are on the Councils website and members of the public can also obtain information from the Council via a Freedom of Information Request.

Article 9 - Officers

9.1 Terminology

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.

9.2 Management structure

The Councils management structure is set out in Part 6.

9.3 Functions of the clerk to the Council

The duties and functions of the clerk to the Council are contained in the Local Government Act (Northern Ireland) 2014 and the Councils Standing Orders.

9.4 Functions of the Chief Financial Officer:

- charged with leading and directing financial strategy and operations.
- lead the promotion and delivery by the whole authority of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.

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.

9.6 Rules governing the recruitment, appointment, dismissal and disciplinary action for officers

The rules governing the recruitment, appointment, dismissal and disciplinary action for officers are contained in the Council's Human Resource policies and guidance documents.

Article 10 – Decision-making

10.1 Principles of decision-making

The Council's responsibility for decision-making can be found in the following documents:

- The Council's Scheme of Delegation is set out at Part 2.
- The Council's Scheme of Delegation for Planning is set out at Part 2.

Details of the Council's decisions are contained in the Council's minutes which are contained on the Council's website.

10.2 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.

10.3 Decision-making by the Council

In the exercise of its decision making processes the Council operates a committee system, which may also contain sub-committees.

10.4 Reconsideration of decisions

The procedures to be followed in relation to a requisition for the reconsideration of a decision are set out in the Council Standing Orders.

10.5 Call-in

Certain 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.

10.6 Rescission of a preceding resolution

This procedure is set out in the Council's Standing Orders.

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.

11.2 Contracts

Every contract made by the Council will comply with the Council's rules and procedures regarding contracts and will comply with the relevant laws.

11.3 Legal proceedings by and against the Council

Refer to the Council's Scheme of Delegation at Part 2.

11.4 Authentication of documents

Refer to the Council's Scheme of Delegation at Part 2.

Article 12 - Review and Revision of the Constitution

12.1 Duty to keep the Constitution up to date

The Council will amend and review this Constitution when necessary. The Council understands that this is an evolving document and may need to be reviewed and changed periodically.

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

The Constitution will be published on the Council's website and copies of the Constitution are available at the Council's Office at Mossley Mill, Newtownabbey and the Civic Centre, Antrim for inspection by members of the public at all reasonable working hours.

13.1 Suspension of the Constitution

The Articles of this Constitution may not be suspended.

The Standing Orders contained in **Part 3** may be suspended by the Full Council to the extent permitted within those Standing Orders and the law.

13.2 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.

Part 2 – Responsibility for Functions

- Council's Scheme of Delegation

COUNCIL'S SCHEME OF DELEGATION

Antrim and Newtownabbey Borough Council is committed to setting and securing the highest standards in decision making and the Scheme of Delegation provides the framework and guidance for the powers delegated to Committees of Council and to senior officers within the Council.

1. Powers Reserved to the Council

- a. The Council is only permitted to do what statute empowers it to do and certain elements of the Council's statutory powers cannot be delegated. These powers are detailed in the relevant legislation.
- b. The Scheme does not delegate to the Chief Executives and Directors any matter reserved to full Council which by law may not be delegated, that is:
 - the power of making a rate; or
 - of borrowing money; or
 - of acquiring, holding; or
 - disposing of land; or
 - the adoption of any new policy, or major change to an existing agreed Council policy.

2. General Delegated Functions

The exercise of the following general functions is delegated to the Chief Executive or Directors.

General administration

- a. Taking all necessary action for the effective day-to-day management, administration and supervision of the department, services and land and property assets.
- b. Implementing those actions, programmes and initiatives, as set out in agreed Council plans subject to regular reporting to the relevant Committee and to the expenditure being within agreed estimates.
- c. Carrying out surveys, other research and appraisals in connection with the functions of the Council, in line with Council financial regulations.
- d. Responding to consultation documents on matters which are routine or which do not have significant policy or financial implications for the Council.
- e. Making initial applications for grant funding from external bodies where there is not sufficient time for Council approval to be obtained provided that there is no commitment for Council funding and that any subsequent decision to proceed remains subject to Committee approval.

- f. To take legal proceedings in regard to the recovery of debt(s), the enforcement of contractual rights, the service of notices, the prosecution of statutory offences and the instituting and defending of claims and proceedings affecting the Council. Any legal advice obtained by the Chief Executive, Directors or Officers is subject to legal professional privilege and will not be disclosed, subject to legal advice, without the consent of the Chief Executive or Directors.
- g. Approving business cases/economic appraisals up to the value of £30,000.

(a) Finance

- a. Writing off any loss of money (including bad debts) and loss of stores and obsolete equipment and materials in accordance with the limits outlined in the Financial Regulations.
- b. Authorising the virement of budgets (the transfer of budget from one budget heading to another) in accordance with the limits outlined in the Financial Regulations.
- c. Approving payments to employees for damage to personal apparel or other items up to a limit of £500 where the damage has occurred in the course of the duties of that employee.
- d. Authorising appropriate payments to employees in their department in respect of telephone, travel and subsistence allowances, standby and call out allowances, overtime, additional duties, costs of study courses and removal and relocation expenses, in accordance with Council policies.
- e. Granting of small scale hospitality subject to the financial limits set.

(b) Emergencies and cases of urgency

- a. Taking such measures, including incurring expenditure, as may be required in emergency situations or cases of urgency, subject to advising the Mayor and reporting to the appropriate Committee as soon as possible.

(c) Management of Land & Property Assets

The exercise of the following delegated powers is in relation to the management of the land and property assets (e.g. leisure centres, community centres, parks and open spaces). The use of these delegated powers is subject to Para 1b above that there is no disposal, holding or acquisition of land involved.

- a. Permitting the use of such assets by Council departments and services and outside bodies in accordance with any relevant Council policies.

3. Human Resources

The exercise of the following delegated powers is subject to consultation with the Director of Organisation Development to ensure that decisions are taken in accordance with any relevant Council policies and that, where necessary, the appropriate Committee is kept fully advised by way of regular reporting

- a. Staff management changes that result in an increase in the approved staffing establishment and staffing budget for a department and/or which effect any changes to posts at third tier and above (Head of Service level) will be subject to approval by the relevant Committee.
- b. Creating new temporary posts provided that there is no increase in the Department's approved staffing establishment and staffing budget.
- c. Approving the use of agency resources in accordance with all relevant Council policies.
- d. Appointing successful applicants to posts in line with the employment policies and practices adopted by the Council.
- e. Agreeing to a one month overlap period for the appointment of employees, provided that this can be accommodated within budget.
- f. Determining the grading of any post below the level of Chief Executive in accordance with all relevant Council procedures.
- g. Approving the payment of honoraria to an employee in accordance with all relevant Council policies.
- h. Allowing or disallowing all requests for leave, of any kind, in accordance with the Schemes of Conditions of Service adopted by the Council.
- i. Granting paid special leave to an employee in exceptional circumstances (up to two weeks), and approving other paid or unpaid leave of absence subject to all relevant Council policies.
- j. Taking action, including terminating or varying contracts of employment in respect of employees in the relevant department in accordance with all relevant Council policies following consultation with the Director of Organisation Development.
- k. Paying the cost in whole or in part of an employee's professional fees where it is deemed necessary for the employee to perform their duties.
- l. Authorising any employees to attend training and development events, technical visits and courses, including conferences, exhibitions, workshops and seminars and meetings of appropriate professional associations, subject to any relevant Council policies.
- m. Undertaking, in consultation with the Director and the Chair of the relevant committee, the long listing and short listing of candidates for Director prior to interview and appointment.
- n. Determining requests for early and flexible retirement in consultation with the Director of Finance and Governance in line with Council policy.
- o. Approving secondments and career breaks in accordance with Council policy.

4. Procurement

The exercise of the following delegated powers is subject to consultation with CLT to ensure that decisions are taken in accordance with any relevant Council policies and the Financial Regulations, and that where necessary, the appropriate Committee is kept fully advised by way of regular reporting.

- a. Procuring goods, services or works under the statutory limit of £30,000 where the procurement
 - i. is in relation to matters of a routine or recurring nature; or

- ii. is in relation to the operational requirements of the Department provided that it is not of an unusual or controversial nature; or
 - iii. is contained within an agreed Council plan; or
 - iv. is in relation to the direct awarding of a contract up to the value of £30,000.
- b. Opening of tenders subsequent to an approved tender exercise.
 - c. Authorising a contract for the procurement of goods, services or works following economic appraisal/business case is in line with the Council approval.
 - d. Approving the changing of sureties by contractors provided the Council's interests remain fully protected.
 - e. Terminating a contract awarded by the Council where the contractor is in breach of contract and/or unable or unwilling to proceed therewith, subject to prior consultation with the Director of Finance and Governance.
 - f. Taking action to ensure contract compliance and negotiating claims and contract variations to a limit of a 50% increase from original contract sum.
 - g. Making arrangements for the supply of goods and services pursuant to Section 105 of the Local Government Act (Northern Ireland) 1972.
 - h. Extending contracts providing they are in line with the contract terms.

5. Environmental Health

(a) SCHEDULE OF DELEGATED FUNCTIONS

In exercise of its powers under Section 47A of The Local Government Act (Northern Ireland) 1972, as inserted by Article 26 of the Local Government (Miscellaneous Provisions (Northern Ireland) Order 1985, and having regard to Section 7 of the Local Government Act (Northern Ireland) 2014, the delegation of the discharge of its functions by the Council under the following provisions to the Director of Sustainability.

- o The Anti-Social Behaviour (Northern Ireland) Order 2004
- o The Betting, Gaming, Lotteries & Amusements (Northern Ireland) Order 1985
- o The Caravans Act (Northern Ireland) 1963
- o The Children & Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991
- o The Cinemas (Northern Ireland) Order 1991
- o The Clean Air (Northern Ireland) Order 1981
- o The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (as amended) and any orders or regulations made thereunder or relating to the foregoing
- o The Construction Products Regulations 2013
- o The Consumer Protection Act 1987 and any regulations made thereunder or relating to the foregoing or having effect, by virtue of the European Communities Act 1972
- o The Consumer Rights Act 2015
- o The Criminal Justice and Police Act 2001
- o The Dangerous Dogs (Northern Ireland) Order 1991
- o The Dogs (Northern Ireland) Order 1983
- o The Environment (Northern Ireland) Order 2002
- o The European Withdrawal Act 2018 (as amended)
- o The Fire and Rescue Services (Northern Ireland) Order 2006 Article 33(1)
- o The Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2015
- o The Food & Environment Protection Act 1985 Part III
- o The Food Hygiene Rating Act (Northern Ireland) 2016

- The Food Safety (Northern Ireland) Order 1991 (as amended) and any orders or regulations made thereunder or relating to the foregoing or having effect by virtue of The European Communities Act 1972 and modification or re-enactment to the foregoing
- The General Product Safety Regulations 2005
- The Hairdressers Act (Northern Ireland) 1939
- The Health and Personal Social Services (Northern Ireland) Order 1978
- The Health and Safety at Work (Northern Ireland) Order 1978
- The Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999 to act on behalf of the Council in relation to Transfer and Assignment Arrangements (Regulation 7 and 8)
- The Health Protection (Coronavirus, Restrictions) (No.2) (Northern Ireland) Regulations 2020 (as amended) to act as designated on behalf of the Council
- The High Hedges Act (Northern Ireland) 2011
- The Industrial Pollution Control (Northern Ireland) Order 1997
- The Licensing of Pavement Cafes Act (Northern Ireland) 2014
- The Litter (Northern Ireland) Order 1994
- The Local Government Act (Northern Ireland) 1972
- The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985
- The Noise Act 1996
- The Petroleum (Consolidation) Act (Northern Ireland) 1929 (as amended)
- The Petroleum Regulation Acts (Northern Ireland) 1929 & 1937
- The Poisons (Northern Ireland) Order 1976
- The Pollution Control & Local Government (Northern Ireland) Order 1978
- The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 (as amended)
- The Private Tenancies (Northern Ireland) Order 2006
- The Private Water Supplies Regulations (Northern Ireland) 2009
- The Public Health Acts 1878-1967
- The Rats & Mice (Destruction) Act 1919
- The Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Enforcement Regulations 2008 (as amended)
- The Rent (Northern Ireland) Order 1978
- The Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010
- The Safety of Sport Grounds (Northern Ireland) Order 2006
- The Shops (Sunday Trading etc.) (Northern Ireland) Order 1997
- The Smoking (Northern Ireland) Order 2006
- The Standardised Packaging of Tobacco Products Regulations 2015
- The Street Trading Act (Northern Ireland) 2001
- The Sunbeds (Northern Ireland) Act 2011
- The Tobacco Advertising and Promotion Act 2002
- The Tobacco Retailers (Northern Ireland) Act 2014
- The Volatile Organic Compounds in Paint, Varnishes and Vehicle Refinishing Products Regulations 2005
- The Waste & Contaminated Land (Northern Ireland) Order 1997
- The Welfare of Animals (Northern Ireland) Act 2011
- The Tenancy Deposit Schemes Regulations (Northern Ireland) 2012
- The Landlord Registration Scheme Regulations (Northern Ireland) 2014
- The Control of Greyhounds etc. Act (Northern Ireland) 1950
- The Houses in Multiple Occupation Act (Northern Ireland) 2016

The Council further undertakes to delegate its functions with regard to institute legal proceedings pursuant to offences committed under the provisions listed above to the Director of Sustainability, such delegated authority to be exercised in accordance with the

Council's Enforcement Policy on Environmental Health functions and to be reported to the Council thereafter. Such legal proceedings will be subject to consultation with the Council's lawyers as appropriate.

(b) SCHEDULE OF DELEGATED FUNCTIONS

In exercise of its powers under Section 47A of The Local Government Act (Northern Ireland) 1972, as inserted by Article 26 of the Local Government (Miscellaneous Provisions (Northern Ireland) Order 1985, and having regard to Section 7 of the Local Government Act (Northern Ireland) 2014, the delegation of the discharge of its functions by the Council under the following provisions to the Head of Environmental Health and Wellbeing.

- The Anti-Social Behaviour (Northern Ireland) Order 2004
- The Betting, Gaming, Lotteries & Amusements (Northern Ireland) Order 1985
- The Caravans Act (Northern Ireland) 1963
- The Children & Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991
- The Cinemas (Northern Ireland) Order 1991
- The Clean Air (Northern Ireland) Order 1981
- The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (as amended) and any orders or regulations made thereunder or relating to the foregoing
- The Construction Products Regulations 2013
- The Consumer Protection Act 1987 and any regulations made thereunder or relating to the foregoing or having effect, by virtue of the European Communities Act 1972
- The Consumer Rights Act 2015
- The Criminal Justice and Police Act 2001
- The Dangerous Dogs (Northern Ireland) Order 1991
- The Dogs (Northern Ireland) Order 1983
- The Environment (Northern Ireland) Order 2002
- The European Withdrawal Act 2018 (as amended)
- The Fire and Rescue Services (Northern Ireland) Order 2006 Article 33(1)
- The Fluorinated Greenhouse Gases Regulations (NI) 2015
- The Food & Environment Protection Act 1985 Part III
- The Food Hygiene Rating Act (Northern Ireland) 2016
- The Food Safety (Northern Ireland) Order 1991 (as amended) and any orders or regulations made thereunder or relating to the foregoing or having effect by virtue of The European Communities Act 1972 and modification or re-enactment to the foregoing
- The General Product Safety Regulations 2005
- The Hairdressers Act (Northern Ireland) 1939
- The Health and Personal Social Services (Northern Ireland) Order 1978
- The Health and Safety at Work (Northern Ireland) Order 1978
- The Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999 to act on behalf of the Council in relation to Transfer and Assignment Arrangements (Regulation 7 and 8)
- The Health Protection (Coronavirus, Restrictions) (Northern Ireland)(No.2) Regulations 2020 (as amended) to act as designated on behalf of the Council
- The High Hedges Act (Northern Ireland) 2011
- The Industrial Pollution Control (Northern Ireland) Order 1997
- The Licensing of Pavement Cafes Act (Northern Ireland) 2014
- The Litter (Northern Ireland) Order 1994

- The Local Government Act (Northern Ireland) 1972
- The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985
- The Noise Act 1996
- The Petroleum (Consolidation) Act (Northern Ireland) 1929 (as amended)
- The Petroleum Regulation Acts (Northern Ireland) 1929 & 1937
- The Poisons (Northern Ireland) Order 1976
- The Pollution Control & Local Government (Northern Ireland) Order 1978
- The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 (as amended)
- The Private Tenancies (Northern Ireland) Order 2006
- The Private Water Supplies Regulations (Northern Ireland) 2009
- The Public Health Acts 1878-1967
- The Rats & Mice (Destruction) Act 1919
- The Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Enforcement Regulations 2008 (as amended)
- The Rent (Northern Ireland) Order 1978
- The Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010
- The Safety of Sport Grounds (Northern Ireland) Order 2006
- The Shops (Sunday Trading etc.) (Northern Ireland) Order 1997
- The Smoking (Northern Ireland) Order 2006
- The Standardised Packaging of Tobacco Products Regulations 2015
- The Street Trading Act (Northern Ireland) 2001
- The Sunbeds (Northern Ireland) Act 2011
- The Tobacco Advertising and Promotion Act 2002
- The Tobacco Retailers (Northern Ireland) Act 2014
- The Volatile Organic Compounds in Paint, Varnishes and Vehicle Refinishing Products Regulations 2005
- The Waste & Contaminated Land (Northern Ireland) Order 1997
- The Welfare of Animals (Northern Ireland) Act 2011
- The Tenancy Deposit Schemes Regulations (Northern Ireland) 2012
- The Landlord Registration Scheme Regulations (Northern Ireland) 2014
- The Control of Greyhounds etc. Act (Northern Ireland) 1950
- The Houses in Multiple Occupation Act (Northern Ireland) 2016

The Council further undertakes to delegate its functions with regard to institute legal proceedings pursuant to offences committed under the provisions listed above to the Head of Environmental Health and Wellbeing, such delegated authority to be exercised in accordance with the Council's Enforcement Policy on Environmental Health functions and to be reported to the Council thereafter. Such legal proceedings will be subject to consultation with the Council's lawyers as appropriate.

6. Building Control

Delegation

The Council in the interest of improved service delivery and promptness of action may delegate some of the powers to officers of the Council.

A local authority may only delegate the discharge of a function to the extent that statute has conferred on it the power to do so. Here the relevant power to delegate is that conferred by Section 47a of the Local Government Act 1972 as amended by Article 26 of the Local

Government (Miscellaneous Provisions) (NI) Order 1985 and having regard to Section 7 of the Local Government Act (Northern Ireland) 2014.

Delegation of Statutory Powers

In exercising of the powers, under Section 47a of the Local Government Act 1972 as amended by the Local Government (Miscellaneous Provisions) (NI) Order 1985 and having regard to Section 7 of the Local Government Act (Northern Ireland) 2014, it is recommended that the Council hereby delegates to the under noted officers the following powers and duties:

The details of the legislation are contained in Appendix 1.

The Council further undertakes to delegate its functions with regard to institute of legal proceedings pursuant to offences committed under the provisions listed above to those postholders detailed below. Such delegated authority to be exercised in accordance with the requirements of the regulations and to be reported to the Council thereafter. Such legal proceedings will be subject to consultation with Legal Services as appropriate.

- Deputy Chief Executive, Director of Economic Development, Planning
- Deputy Director of Planning and Building Control
- Head of Building Services
- Principal Building Control Surveyors

Property Services

Delegation of Statutory Powers

The Council in the interest of improved service delivery and promptness of action may delegate some of the powers to officers of the Council.

A local authority may only delegate the discharge of a function to the extent that statute has conferred on it the power to do so. Here the relevant power to delegate is that conferred to by Section 47a of the Local Government Act 1972 as amended by Article 26 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 and

having regard to Section 7 of the Local Government Act (Northern Ireland) 2014. It is recommended that the Council hereby delegates to the under noted officers the following powers and duties:

Removal or obliteration of graffiti

a. Article 18 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 in relation to the removal or obliteration of graffiti

- Deputy Director of Planning and Building Control
- Head of Building Services

Scheme of Delegation: Delegation of Planning Applications, Enforcement and other Planning Matters (Revised December 2020)

Introduction

Part 4 Section 7 (4) (b) Local Government Act (Northern Ireland) 2014 allows a Council Committee to delegate certain matters to an officer of the Council. In relation to the scheme of delegation for planning applications, enforcement and other planning matters the person appointed by the Council to exercise delegated powers is the Deputy Director of Planning within the Council and those Senior Planning Officers¹ nominated by this Officer in writing.

Delegation of Planning Applications

This scheme of delegation (as revised) for the determination of planning applications has been agreed by Antrim and Newtownabbey Borough Council and approved by the Department for Infrastructure. The scheme of delegation (as revised) is in accordance with Section 31 of The Planning Act (NI) 2011 and takes effect on 1 March 2021.

Part A – Planning Applications required under the Planning Act to be determined by the Planning Committee

Statutory provisions within the Planning Act (NI) 2011 require that certain types of planning application must be determined by the Planning Committee. Accordingly, the following categories of application cannot be delegated to officers:

- (a) An application that falls within the Major category of development;
- (b) An application for planning permission where the application is made by the Council or an elected Member of the Council, and
- (c) An application relating to land in which the Council has an interest.

Part B – Delegated Planning Applications

The Council has agreed that the person appointed is empowered to determine all planning applications that fall within the Local category of development whether for approval or refusal with the following exceptions:

¹ For the purposes of this scheme of delegation a senior planning officer is defined as a Principal Planning Officer or a Senior Planning Officer employed by the Council.

- (a) An application made by a Senior Officer of the Council (Head of Service or above), a staff member of the Planning Section or their immediate families or the immediate family² of an elected Member.
- (b) An application that would introduce fundamental changes to a major application that has been determined by the Planning Committee;
- (c) An application which is a significant departure from the Development Plan and which is recommended for approval.
- (d) An application subject to objections from more than 2 postal addresses within the Neighbour Notification area or 5 objections from occupied properties in the wider area;
- (e) An application recommended for refusal, except where the refusal decision relates to:
 - a retrospective application where there is an Enforcement Notice in place;
 - cases where information required to determine the application has not been submitted following a reasonable request; or
 - an application for an advertisement(s) not located within the curtilage of the business premises to which it relates.
- (f) An application which the Deputy Director of Planning considers should be considered and decided by the Committee;
- (g) An application where a legal agreement under Section 76 of Planning Act (Northern Ireland) 2011 is required; and
- (h) An application which is referred to the Committee by a Member of the Council. Any such referral must be made in writing to the Deputy Director of Planning within 21 calendar days of validation of the application and accompanied by a sound planning reason.

Delegation of Enforcement and other Planning Matters

Part C – Enforcement

As well as determining planning applications, the Council is also responsible for the enforcement of planning control and a range of other planning matters, including the processing of other planning consents.

The Council has agreed that all matters associated with the enforcement of planning control are delegated to the person appointed by the Council with the following exceptions:

- (a) The service of an Enforcement Notice, Listed Building Enforcement Notice, Stop Notice, Temporary Stop Notice, Breach of Condition Notice or Fixed Penalty Notice, except in the following circumstances:
 - where the person appointed considers the breach of planning control could result in immediate public danger or development which may result in permanent damage to the environment. Examples include: the demolition of, or works to, a listed building; the felling of protected trees; the demolition of a building in a conservation area; or the commencement of building operations without permission; or
 - it relates to service of Notices on an existing offender in relation to any further breach(es) of control on the same site, or adjoining lands within the same ownership, in cases where formal action has already been taken. The service of any such Notice will be reported to the next available Planning Committee for ratification.
- (b) The instigation of court proceedings with the exception of direct offences in relation to advertisement control, Tree Preservation Orders, Conservation Areas and Listed Buildings

² For the purposes of this scheme of delegation immediate family refers to a spouse, partner, children and parents.

and prosecution for non-compliance with a Planning Contravention Notice and a Submission Notice as well as non-compliance with any formal Notices or action taken by the Council. Court proceedings will be reported in the Quarterly Enforcement Report; and

- (c) Any other enforcement matter which the Deputy Director of Planning considers should be considered and decided by the Committee.

Part D – Determination of other Planning Matters

In relation to other planning responsibilities the Council has agreed that the following matters are also delegated to the person appointed:

The issuing of a certificate of lawful use or development;

- (a) The making of a non-material change to a planning permission;
- (b) The discharge of planning conditions;
- (c) The issuing of a correction notice (once this provision is commenced);
- (d) The power to formulate the precise wording of decision notices following decisions made by the Planning Committee;
- (e) The power to provide draft conditions or reasons of refusal (as appropriate) to the Planning Appeals Commission on Non-Determination Appeals subject to the agreement of the Chair and Vice-Chair of the Planning Committee; and
- (f) The screening of and determination decisions on development proposals required under the Environmental Impact Assessment or Habitats Regulations.

The Council has also agreed that the following matters are delegated to the person appointed subject to the same exceptions set out under Part B above:

- (g) Determination of any application for listed building consent;
- (h) Determination of any application for conservation area consent;
- (i) Determination of any application for advertisement consent;
- (j) Determination of any application to carry out works to a protected tree (i.e. a tree the subject of a Tree Preservation Order); and
- (k) Determination of any hazardous substance consent.

The Council has also agreed that the following matters are delegated to the person appointed in circumstances where awaiting the Planning Committee meeting could result in serious environmental or amenity damage arising:

- (l) The serving of a Provisional Tree Preservation Order; and
- (m) The affixing of a Building Preservation Notice.

The use of these powers will be reported to the next available Planning Committee meeting for ratification.

Delegation of Local Development Plan Matters

Part E – Local Development Plan

(a) The Appointed Officers shall be entitled to represent the Council any Independent Examination held under section 10 (1) of the Planning Act (Northern Ireland) 2011.

(b) During the course of any Independent Examination held under section 10 (1) of the Planning Act (Northern Ireland) 2011, the Appointed Officers may carry out the functions set out in (i) below:

- (i) propose and agree on behalf of the Council minor modifications to the development plan document which is under examination.

(c) For the purposes of this Scheme of delegation, "minor modifications" means typographical, clarificatory, or factual modifications which do not, in the judgement of the Appointed Officers, materially alter the operation of substance of the development plan document or relevant policies within it.

(d) During the course of any Independent Examination held under Section 10 (1) of the Planning Act (Northern Ireland) 2011, the Appointed Officers may carry out the functions set out in (i) below, but only in accordance with the conditions set out in paragraph (f) below:

- (i) propose and agree on behalf of the Council to modifications to the development plan document which go beyond "minor modifications" (as defined in this Scheme), but which do not amount to a "major change" as defined in Part 2, Article 2 of the Constitution (defined in this Scheme as "non-minor modifications").

Before proposing or agreeing to "non-minor modifications", the Appointed Officers must first consult with Party Leaders, the Chair and Vice Chair of the Planning Committee and having done so, the Appointed Officers may only propose or agree to the non-minor modifications in question (if a majority of those Members have indicated in writing that they consent to the Appointed Officers doing so).

Part F – Publicity

The Council has made a copy of this Scheme of Delegation available on the Council's website at www.antrimandnewtownabbey.gov.uk and it is also available on request at the Council's offices in Mossley Mill and Antrim Civic Centre.

A Public Notice for the scheme of delegation (as revised) has been placed in the local press.

8. Election results and decision making structure

- Councillors election results
- Council's decision making structure

<https://antrimandnewtownabbey.gov.uk/>

Part 3 – Rules of Procedure

- Contracts Procedure Rules (Tenders and Procurement)

<https://antrimandnewtownabbey.gov.uk/procurement/>

- Council Standing Orders

<https://antrimandnewtownabbey.gov.uk/council/council-governance/>

- Financial Regulations

<https://antrimandnewtownabbey.gov.uk/>

Part 4 – Codes and Protocols

- Code of Conduct for Councillors

<https://antrimandnewtownabbey.gov.uk/getmedia/244dbff7-20eb-40d1-bbe9-59bf30fd8e35/the-northern-ireland-local-government-code-of-conduct-for-councillors.pdf.aspx>

- Code of Conduct for Officers and Local Government Employee and Councillor Working Relationship Protocol

<https://antrimandnewtownabbey.gov.uk/>

Part 5 – Members Allowance Scheme

- Councillors Allowances & Expenses

<http://www.antrimandnewtownabbey.gov.uk/Council/Your-Councillors/Councillors-Allowances-Expenses>

Part 6 – Officers Management Structure

<https://antrimandnewtownabbey.gov.uk/council/council-organisation-structure/>

Appendix 1 – Legislation in respect of which functions are delegated to Building Control

Building Regulations

- a. The Building Regulation (Northern Ireland) Order 1979 Article 13 (passing or rejection of plans) Article 18 (serving of a Contravention notice in respect of works contravening the building regulations).
- b. The Building Regulations (Northern Ireland) 2012 (as amended) Regulation 3 Transitional provisions (plans deposited before 31 October 2012).
- c. The Building Regulations (Northern Ireland) 2012 (as amended) Regulation 11 (power to issue type approval certificate).
- d. The Building Regulations (Northern Ireland) 2012 (as amended) Regulation 13 (issue of regularisation certificates).
- e. The Building Regulations (Northern Ireland) 2012 (as amended) Regulation 14 (issue of completion certificates).
- f. The Building Regulations (Northern Ireland) 2012 (as amended) Regulation 17 (exercise the power of dispensation or relaxation).

Dangerous Structures

- a. The Town Improvement Clauses Act 1847 Section 75 as adopted by the Town Improvement Act 1854 Section 39 (ruinous and dangerous buildings)
- b. The Public Health Act 1907 - Section 30 (dangerous places to be repaired or enclosed). (Serving of Notices)

The Energy Performance of Buildings (Certificate and Inspections) Regulations (Northern Ireland) 2008 and The Energy Performance of Buildings (Certificate and Inspections) (Amendment) Regulations (Northern Ireland) 2013

- a. Article 33 – Power to issue a Penalty charge notice
- b. Article 18 - amendments to Power to issue a Fixed Penalty Notice.

The Local Government Miscellaneous Provisions (Northern Ireland) Order 1995

- a. Article 11 (7) Street names and numbering of buildings. (Power to issue a notice to an occupier of each building in a street to ensure that the building is marked with the number approved by the Council)