

ASSOCIATION OF IRISH LOCAL GOVERNMENT

LOCAL AUTHORITY ELECTED MEMBERS GUIDANCE MANUAL



AILG

Association of Irish Local Government
Aontas Rialtas Áitiúil na hÉireann

ASSOCIATION OF IRISH LOCAL GOVERNMENT



CONTENTS

AILG Welcome Message	4
Legislative Framework Context	5
Functions of a Local Authority	7
Policy Framework Context	8
Role of the Elected Member & Reserved Functions	9
Role of the Chief Executive	13
Procedures at Council Meetings & Standing Orders	15
Attendance at Council Meetings	17
Local Authority Finance	18
The Local Authority Annual Budget & AFS	19
Committees	21
Plans and Policies	25
Bye-laws	27
Ethics and Governance	28
Local Elections (Disclosure of Donations and Expenditure) Act 1999	30
Code of Conduct for Councillors	33
Regulation of Lobbying Act, 2015	34
General Data Protection Regulations (GDPR)	35
Freedom of Information (FOI) and the Elected Member	36
Protected Disclosures	38
General Information - Remuneration & Allowances	40
Appendix 1 - Reserved Functions	43
Appendix 2 - Functions of Local Authorities	47

Dear Councillor

On behalf of the AILG may we congratulate you on your recent election as an elected member of your local authority.

From the offshore-islands to the city centres and from the plains of the midlands to the suburbs of the commuter belts a remarkable democratic exercise took place at the last local elections, when people of this country chose members of their own communities to represent them on their local authorities for the coming five-year term.

While being elected as a local Councillor is a tremendous honour and privilege, it also brings with it a great responsibility. As a local Councillor, you must provide the vision and leadership that will enable your community to enjoy the quality of life that it aspires to and deserves. Our goal as local Councillors should be to ensure that our community and county is a better place in which to live, work and visit.

The Association of Irish Local Government (AILG) is the primary body representing the democratically elected members and their member local authority. It is a networking, policy development and training resource for the elected members of Ireland's thirty-one County and City Councils. Through regular interaction with other stakeholders in the local government environment the AILG aims to ensure that the contribution of Ireland's democratically elected Councillors is appreciated in Government Departments and throughout the full range of public agencies. We hope that this publication will be a helpful resource tool for you in your work going forward. We wish to thank Ms. Mary T Daly, Director of Corporate, Communications and Governance, Dún Laoghaire-Rathdown County Council and the network of Meetings Administrators for their assistance in this publication.

Finally, we wish you the very best in this 5-year council term and we thank you for your public service and assure you that the AILG is here to help and assist you in whatever way we can over the course of this new council term.

Kind Regards

AILG Officers, Executive & Delegate Members

LEGISLATIVE FRAMEWORK / CONTEXT

Our local government system in Ireland is the most accessible form of democratically elected government in the country. Our local authorities identify local concerns and help solve community problems. The vision of local government is to be the main vehicle of governance and public service at local level - leading economic, social and community development, delivering efficient and good value services, and representing citizens and local communities effectively and accountably. As a result, the key purpose of local government is to promote the well-being and quality of life of citizens and communities, through effective, accountable representation, efficient performance of functions and delivery of services.

THE FRAMEWORK OF GOVERNMENT IN IRELAND CONSISTS OF:

- I. The Constitution (Bunreacht na hÉireann)
- II. The Judiciary
- III. The Legislature
- IV. The Executive

Article 28A of the Irish Constitution recognises the role of local government in providing a forum for the democratic representation of communities and in exercising and performing powers conferred by law. It also provides a guarantee that local elections will be held every five years.

The Local Government Act 2001 as amended by the Local Government Reform Act 2014 is the core legislative code supporting the structures, powers, functions and duties of local government in Ireland.

In addition to the 2001 & 2014 Acts, the operation of local authorities is affected by a range of other legislation very often dealing with specific services (e.g. housing, roads, planning, waste, etc.) which should be consulted, where relevant.

CENTRAL GOVERNMENT AND LOCAL GOVERNMENT

The Department of Housing Planning and Local Government (DHPLG) is responsible for Housing, Planning and Local Government. County, City and City & County Councils work closely with other Central Government Departments for example, Defence, Transport, Tourism, Sport, Arts, Heritage, the Gaeltacht, Enterprise etc.

LOCAL GOVERNMENT STRUCTURE IN IRELAND

Each local authority is divided into local electoral within which members of local authorities are elected. Local electoral areas and the number of members to be elected in each are specified in a statutory instrument for each local authority area. There are 949 Local Authority Elected Members and the breakdown between local authorities at county, city and city and county is as follows:

Local Authorities

There are 31 local authorities

- I. 26 County Councils, of which three are in Dublin (Fingal, Dún Laoghaire-Rathdown and South Dublin)
- II. 3 City Councils: Cork, Dublin and Galway
- III. 2 City and County councils: Limerick and Waterford.

LEGISLATIVE FRAMEWORK / CONTEXT

Municipal Districts & Municipal Borough District

Municipal districts form a key tier of local governance at sub-county level. Each county is comprised of a number of municipal districts. Municipal districts are comprised of one or more local electoral areas. Councillors elected to a local electoral area have functions in respect of the specified municipal district. Towns which were historically represented by borough councils or the population of which within the county (as ascertained at Census 2016 when rounded to the nearest 1,000, is equal to or greater than 30,000), are designated as Municipal Borough Districts. Municipal Borough Districts may also consist of one or more local electoral areas. In total there are 95 Municipal/Municipal Borough Districts

Metropolitan District

The Metropolitan Districts (2 in total) of Limerick and Waterford include, and extend beyond, the urban areas of the former city councils. Each Metropolitan District is comprised of more than one local electoral area.

PRINCIPLE ELEMENTS OF THE LOCAL GOVERNMENT SYSTEM

- I. The Elected Council
- II. The Chief Executive, Management Team and Staff
- III. Strategic Policy Committees (SPCs)
- IV. Corporate Policy Group (CPG)
- V. Local Community Development Committee (LCDC)

Various other committees (see page 23)

FUNCTIONS OF A LOCAL AUTHORITY

Functions of a Local Authority

Local authorities are multi-purpose bodies responsible for delivering a broad range of services in relation to roads, traffic, planning, housing, economic and community development, environment, recreation and amenity services, fire services and maintaining the register of electors (see appendix 2).



HOUSING



ROAD,
TRANSPORT
& SAFETY



RECREATION
& AMENITY



PLANNING



LIBRARY
SERVICES



WATER



ENVIRONMENTAL
PROTECTION



ECONOMIC
DEVELOPMENT



FIRE
SERVICES



REGISTER OF
ELECTORS

Responsibilities in councils are divided into two areas:

- I. reserved functions (for the elected council)
- II. executive functions (for the chief executive)

Policy decisions are made by majority resolutions passed by the elected Councillors during council meetings. These are reserved for the elected council and are 'reserved functions'. Some of the reserved functions include: passing an annual budget, housing policy decisions and policies on environmental protection.

These decisions may be made at 2 levels:

- I. Full council (plenary level)
- II. Municipal/metropolitan/borough district level

The municipal/metropolitan/borough district members act as a decision-making sub-formation of the overall council in respect of their municipal/metropolitan/borough district area.

It is the duty of the chief executive along with the directors of services and other members of the local authority management team to advise and assist the elected council. The Chief Executive, assisted by a senior management team, manages a local authority on a day-to-day basis. Some of the chief executive's responsibilities include delivering on strategic objectives as set out in the corporate plan, administering schemes and allocating grants. The Chief Executive is responsible for implementing policy areas, as set out by the Elected Members, in areas including transport, social housing, economic development and local authority governance.

POLICY FRAMEWORK CONTEXT

POLICY FRAMEWORK/CONTEXT

1. NATIONAL CONTEXT:

- I. Project Ireland 2040
- II. Rebuilding Ireland
- III. Public Service 2020

2. REGIONAL CONTEXT:

- I. National Planning Framework
- II. Regional Economic and Spatial Strategy
- III. Regional Assemblies

3. LOCAL CONTEXT:

- I. County Development Plan
- II. Corporate Plan
- III. Local Economic and Community Plans
- IV. Annual Service Delivery Plan
- V. Local Area Plans
- VI. Housing Strategies etc.
- VII. Climate Change Adaptation Plans

4. CITIZEN PARTICIPATION:

Citizen Participation is now at the heart of local government. Many people now wish to become more directly involved in matters affecting or impacting their lives. Citizen engagement is achieved via the Public Participation Network (PPN)

ROLE OF THE ELECTED MEMBER & RESERVED FUNCTIONS

ROLE OF THE ELECTED MEMBER

The public face of our local authorities are the democratically elected councillors. The elected council is, in law, the policy-making arm of the local authority with councillors having the role of creating the overall policy framework within which the council's executive and staff work. Aligned with that, a significant role of councillors is to represent the views of their communities. They identify and track local problems and issues and bring this knowledge back into the council chamber to ensure better outcomes for the well-being and quality of life for the people and communities that they represent.

The councillor's role and responsibilities include representing the electoral area for which they are elected and the local authority as a whole, decision-making, developing and reviewing council policy, regulatory and statutory duties. They also have a key role in community leadership and engagement.

The powers of the Elected Members are derived primarily from their reserved functions which are performed at both council and municipal/metropolitan/borough district level. In particular the Elected Members have powers to represent the interests of the local community and to promote generally the interests of the local community. The Members have specific policy roles and adopt the major guiding policy documents of the local authority, which dictate the direction and functions of the local authority. The various reserved functions of Plenary Council and Municipal/Metropolitan/Borough Districts are set out in Schedule 3 of the Local Government Reform Act, 2014. (See Appendix 1)

THE POLICY ROLE OF THE ELECTED MEMBER

The performance of local authority functions are shared between the Elected Members and the Chief Executive, the Elected Members carrying out Reserved Functions and the Chief Executive carrying out Executive Functions.

Reserved functions primarily relate to issues of policy, e.g. the adoption of the County Development Plan, Local Area Plans and importantly the adoption of the Annual Budget and are derived from the following: -

- I. The policy framework within which the Chief Executive exercises Executive Functions is determined by the Elected Members. This process of policy-formulation is conducted in a structured format through the Strategic Policy Committees and Corporate Policy Group arrangements.
- II. Most of the major decisions of the Local Authority are reserved for the exclusive prerogative of the Elected Members including oversight of the financial affairs of the Authority.
- III. In addition to the Reserved Functions, the Elected Members have a role in overseeing and directing the activities of the Local Authority in general. The 2014 Reform Act introduced a structured reporting relationship between the Chief Executive and the Elected Members.
- IV. Elected Members are directly elected by the people and therefore have a mandate from the people in relation to the communities they represent. They can initiate action to promote the community interest and are ideally placed to provide civic leadership.

ROLE OF THE ELECTED MEMBER & RESERVED FUNCTIONS

RESERVED FUNCTIONS

Reserved functions relate primarily to issues of policy, e.g. the adoption of the County Development Plan and the adoption of the annual budget, essential in the determining the overall financial activities of the Council over a broad range of services. This is where the elected members derive their powers. The various reserved functions are set out in Schedule 3 of the Local Government Reform Act, 2014 (See list of Reserved Functions set out at appendix 1).

Certain functions can be carried out at Plenary Council Level only, at Municipal/ Metropolitan/ Borough District Level only and there are certain functions that can be carried out by either.

Section 131A and schedule 14A of the Local Government Act, 2001 (as inserted by section 21 (3) and 21 (4) of the Local Government Reform Act, 2014) sets out a comprehensive listing of reserved functions which are to be: -

- I. **Performed exclusively by Municipal/Metropolitan/Borough District Members (See Appendix.1)**
- II. **Performed by Municipal/Metropolitan/Borough District Members or by the Plenary Council (See Appendix.1)**
- III. **Be performed by the Plenary Council only (See Appendix.1)**

The functions set out in no. 1 above, do not have to be formally 'assigned' to the Municipal/ Metropolitan/Borough Districts. However, it is necessary to determine in each case, and in accordance with the relevant provisions, whether a function is to be performed by the Municipal/Metropolitan/Borough District or the Plenary Council.

For the full list of Reserved Functions please see:

<http://www.irishstatutebook.ie/eli/2014/act/1/schedule/3/enacted/en/html#sched3>

ROLE OF THE ELECTED MEMBER & RESERVED FUNCTIONS

COUNCILS & COUNCILLORS

IRELAND HAS 31 COUNCILS - 26 county councils, 3 city councils & 2 city and county councils. There are 949 councillors in the country.

SERVICES PROVIDED BY COUNCILS



HOUSING



RECREATION & AMENITY



ROAD, TRANSPORT & SAFETY



PLANNING



LIBRARY SERVICES



WATER



ENVIRONMENTAL PROTECTION



ECONOMIC DEVELOPMENT



FIRE SERVICES



REGISTER OF ELECTORS

WHO MAKES DECISIONS

ELECTED COUNCIL

Policy decisions are made by the elected councillors during council meetings. These decisions may be made at 2 levels:

- I. Full council (Plenary Level)
- II. Municipal/Metropolitan/Borough District Level/Area Committee Level

THE CHIEF EXECUTIVE

The Chief Executive, assisted by a senior management team, manages a local authority on a day-to-day basis. It is the duty of the chief executive to advise and assist the elected council.

Both councillors and the chief executive have a common interest in **servicing the community**.

DECISIONS MADE BY COUNCILLORS AT FULL COUNCIL:



APPROVING AN ANNUAL BUDGET



LOCAL ECONOMIC & COMMUNITY PLANS



HOUSING POLICY DECISIONS



COMMERCIAL RATES



VARIATION IN LOCAL PROPERTY TAX RATE



COUNTY/CITY DEVELOPMENT PLANS

DECISIONS MADE BY COUNCILLORS AT DISTRICT LEVEL:



ADOPTING ECONOMIC STATEMENTS FOR FULL COUNCIL TO CONSIDER



LITTER PREVENTION & CONTROL



ANNUAL SCHEDULE OF PROPOSED MUNICIPAL/METROPOLITAN/BOROUGH DISTRICT WORKS



CHARGES FOR COUNCIL AMENITIES, FACILITIES & SERVICES



FUNDS FOR COMMUNITY INITIATIVES



SCHOOL WARDENS' ARRANGEMENTS

DECISIONS MADE BY COUNCILLORS AT FULL OR LOCAL LEVEL:



CIVIC HONOURS



PROTECTED STRUCTURES



LOCAL AREA PLANS



FLOOD RISK MANAGEMENT



HOUSING SERVICES PLANS

THE OVERSIGHT AND DIRECTIONAL ROLE OF THE ELECTED MEMBER

Elected Members have various powers in relation to functions the Chief Executive carries out and can make directions/set requirements in relation to obtaining information on any business or transaction of the Local Authority. For example, the Elected Members have the power to: -

- I. Require the Chief Executive to attend a meeting of the Local Authority or a committee of the Local Authority
- II. Obtain information from the Chief Executive in relation to any business or transaction of the Council

ROLE OF THE ELECTED MEMBER & RESERVED FUNCTIONS

- III. Inspect the Chief Executive's Orders
- IV. At monthly Council meetings the Chief Executive must submit a monthly management report on the performance of executive functions including implementation of policy and the provision of services.
- V. Require the Chief Executive to inform the Elected members before performing any specified executive function (other than in respect of staff) and also to submit plans, specifications and cost-estimates of particular works.
- VI. Require that a particular act, matter or thing be done by the Chief Executive, (Section 140 of the Local Government Act, 2001)

Audit Committee: Each local Authority must establish an Audit Committee in accordance with S122 of the Local Government Reform Act, 2014. The functions of the audit committee are to: -

- I. Review financial and budgetary reporting practices and procedures
- II. Foster the development of best practice by the local authority of its internal audit function
- III. Review any audited financial statement, auditor's report or auditor's special report and assess any actions taken by the Chief Executive in response to such report and report to the Council on its findings
- IV. Assess and promote efficiency and value for money in respect of the Council performance of its functions
- V. Review systems that are operated by the Council for the management of risks.

THE REPRESENTATIONAL ROLE OF THE ELECTED MEMBER

The representational role of Councillors is implicit in their status as local elected representatives of the electorate. Section 64(1) of the Local Government Act 2001 states "As a forum for the democratic representation of the local community, a local authority may represent the interests of such communities in such manner as it thinks appropriate". The local authority elected members have the democratic legitimacy to speak on behalf of and represent the interests of the area and its people either individually or collectively.

Elected Members have the function of representing the people in their area and have the right to make an input on behalf of the community to the other public bodies, the activities of which affect their area. In essence, Councillors act as watchdogs on how decisions affecting the local electorate are made. They voice their opinion on issues of which they have a very close knowledge on. Each Elected Member has a mandate to represent the community which elected them and to represent smaller areas within their own electoral area and across the wider local authority areas. They also may make representations directly on behalf of both groups and individuals to the local authority and to other bodies.

APPOINTMENT TO BOARDS AND OTHER BODIES

Section 141 of the Local Government Act 2001 - 2014 provides for the appointment and nomination of Elected Members to various public bodies or boards which may or may not be established by or under statute, for example the Educational Training Boards, Health Forums and Regional Assemblies. There is a statutory duty on the Member to represent the local authority and to report annually or at any time as requested by resolution of the Council or by the Cathaoirleach.

ROLE OF THE CHIEF EXECUTIVE

ROLE OF THE CHIEF EXECUTIVE

The Executive Functions are carried out by the Chief Executive and/or by delegation order, the Director of Services/Heads of Function. Executive decisions relate to the day-to-day running of the local authority including staffing matters and the discharge of executive functions within the policy parameters as determined by the Elected Members. The Chief Executive ensures that the policy issues adopted by the elected members are implemented. An important role of the Chief Executive is to advise the Elected Members in the determination of policy in accordance with agreed national policy.

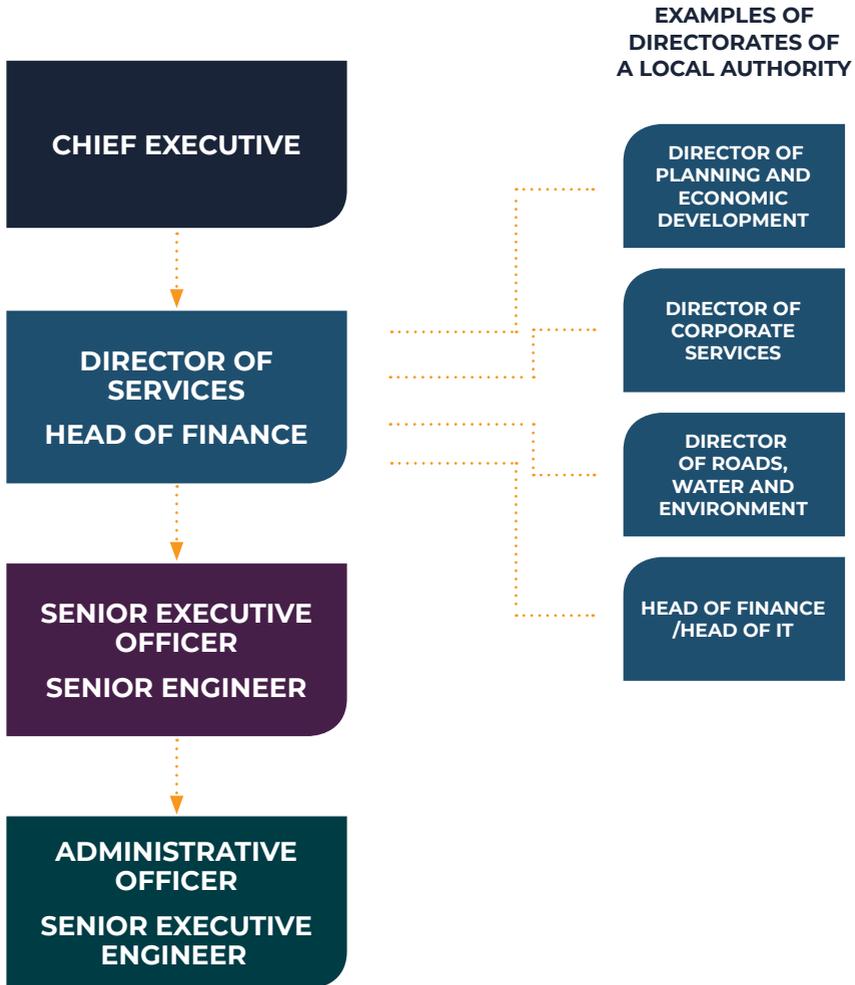
Every function of a local authority which is not a Reserved Function is an Executive Function of such local authority (Section 149 Local Government Act 2001 - 2014)

The Chief Executive may delegate the carrying out of specific functions to Directors of Service and other officers. The officer to whom the function is delegated is responsible to the Chief Executive for ensuring that the function is carried out effectively while the Chief Executive has the ultimate responsibility to the Council.

While there is a clear distinction in legislation in relation to reserved and executive functions in reality the system operates on the basis of a 'partnership' approach between the elected representatives, the Chief Executive and the staff.

ROLE OF THE CHIEF EXECUTIVE

EXECUTIVE ORGANISATIONAL CHART IN EACH LOCAL AUTHORITY*



* Please note the precise organisation structure varies between local authorities

PROCEDURES AT COUNCIL MEETINGS & STANDING ORDERS

The procedures at Council meetings are covered by various pieces of legislation. Part 6 of the Local Government Act, 2001 (amended by the Local Government Reform Act, 2014) together with Schedule 10 of the Act now provide the framework for procedures at Council meetings. Meetings of the Local Authority (Plenary Council) and the Municipal/ Metropolitan/ Borough Districts operate under Standing Orders. These are the rules and procedures by which meetings are governed.

LOCAL AUTHORITY MEETINGS

Types of meetings: In every year a local authority must hold: -

- I. Ordinary Meetings - meetings which are necessary for the transaction of its business
- II. An annual meeting
- III. A budget meeting

In addition, a local authority may hold such special meetings as may be requested by the elected members.

STANDING ORDERS

Standing orders are a set of rules which are adopted by the elected members for the proper control and regulation of proceedings at meetings of the local authority, or the municipal districts. A local authority may include in standing orders all things that may appear to the local authority to be appropriate for that purpose. A copy of standing orders or any amendment must be sent or delivered by the meeting's administrator to each elected member on his or her coming into office.

Examples of Provisions included in Standing Orders: -

- I. Holding of meetings
- II. Time and place of meetings
- III. Summoning and notification of meeting
- IV. Public notice of meeting
- V. Constitution of meeting
- VI. Election of Cathaoirleach/Mayor
- VII. Order of Business
- VIII. Confirmation of minutes
- IX. Notices of motion (amending and revoking)
- X. Motion of the purpose of dealing with urgent business
- XI. Adjournment
- XII. Order of debate
- XIII. Votes and divisions
- XIV. Urgent questions
- XV. Deputations

PROCEDURES AT COUNCIL MEETINGS & STANDING ORDERS

- XVI. Attendance of the public and media
- XVII. Committees
- XVIII. Suspension of standing orders
- XIX. Casual vacancy*
- XX. Miscellaneous
- XXI. Matters not covered by standing orders
- XXII. Duration of standing orders
- XXIII. Revocation and commencement

The Standing Orders can be amended by resolution of the Council by a majority of members when 2/3 of the members of the Council are present. The Municipal/ Metropolitan/ Borough Districts operate under their own standing orders.

***Casual Vacancy**

Please see below section 19 of the Local Government Act 2001 which sets out the procedure for filling a casual vacancy that may arise during a council term.

Section 19 (3) -

(3) (a) A casual vacancy shall be filled by the co-option by the local authority of a person to fill the vacancy, subject to such person being nominated by the same registered political party who nominated for election or co-option the member who caused the casual vacancy.

(b) Where the person causing the casual vacancy was a non-party candidate at his or her election to the local authority, the vacancy shall be filled by the co-option by the local authority of a person to fill the vacancy in accordance with such requirements and procedures as may be set out in its standing orders.

(c) A local authority shall in making standing orders consider the inclusion of provisions for the purposes of paragraph (b).

ATTENDANCE AT COUNCIL MEETINGS

ATTENDANCE AT COUNCIL MEETINGS

- I. **The Cathaoirleach** presides at Council Meeting where he/she may exercise a casting vote (except in the case of the election of the Cathaoirleach.)
- II. **The Chief Executive** (Or his/her Deputy) attends and takes part in discussion, but may not vote.
- III. **The Meetings Administrator** is assigned the responsibility for the procedural matters at Council Meeting and also in relation to notification and the organisation of Council Meetings.
- IV. **Public and media** have a statutory right to attend meetings. However, the Council can decide to meet 'in committee' due to the nature of the business to be discussed for either the whole or part of the meeting. This can only be exercised on a resolution passed by a majority of members. The resolution must state why it is deemed necessary to meet in committee and the minutes must record the fact.
- V. **Deputations** may be received by prior resolution of the Council (procedure set out in standing orders)

LOCAL AUTHORITY FINANCE

EXPENDITURE:

Expenditure of local authorities can be classified under two headings; Revenue and Capital.

Revenue Expenditure is the day to day expenditure of the Council, financed by state grants, rates on commercial property, local property tax and miscellaneous income (charges for services, housing loan repayments etc.) Revenue expenditure is usually of a recurring nature and produces no permanent asset. The annual budget is based on revenue expenditure. The Draft Budget is prepared by the Executive and is adopted by the Elected Members at the Annual Budget Meeting. This is a reserved function of the Council and requires a resolution by the Elected Members.

Capital Expenditure is financed by departmental grants, development contributions, sale of assets and borrowings. Capital expenditure is incurred on the creation of an asset having a life extending beyond the year e.g. house building, major improvement works, roads projects etc.

Section 135 of the Local Government Act 2001 - 2014 provides for the furnishing of the Chief Executive's Report to the Elected Members indicating the programme of proposed capital projects and which is considered by the Elected Members. The Capital Programme may be considered at the statutory budget meeting. However, Section 135 provides for Members to pass a resolution to defer the Chief Executive Report on the Capital Programme, to be considered at a meeting other than the Council's budget meeting.

The power to borrow money is a reserved function for which ministerial sanction is required.

INCOME:

The main sources of Local Authority current income are: -

- I. **Commercial Rates** - levied annually and generally on the occupiers of commercial/ industrial property. Each year the rate is set by the members at the annual budget meeting.
- II. **Charge for Non-Principal Private Residences (NPPR)** – An annual charge applied from 2009 to 2013, although no longer charged, outstanding liabilities and payment are still collected.
- III. **Government Grants** - General grants and specific grants. General grants are non-specific and may be spent at the discretion of the Local Authority (e.g. The Local Government Fund grant). Specific grants are for a specific purpose and are non-discretionary, e.g. road grants, civil defence, homeless assistance.
- IV. **Local Property Tax (LPT):** The LPT replaced the household charge of €100 introduced in 2012. It is an annual tax charged on all residential properties and came into effect in 2013.
- V. **Miscellaneous Sources of Income:** Housing rents and annuities, repayment of housing loans, planning application fees, charges for refuse collection and disposal, fire charges, superannuation contributions, grave spaces fees, casual trading receipts, swimming pool receipts, leasing of lands, parking charges etc.

Income from **development contributions** received under conditions attached to planning permissions, are used for capital expenditure.

THE LOCAL AUTHORITY ANNUAL BUDGET & AFS

The local authority is required to prepare a draft local authority budget setting out the estimated expenditure necessary to carry out its functions for the next financial year and the income estimated to accrue from it. The budget is prepared in the format prescribed by regulations made by the Minister and must balance, i.e. the proposed expenditure must be met from proposed income whether from goods and services, grants or rates.

Format of the Budget: The format of the budget is prescribed in the Accounting Code of Practice and the Local Government (Financial Procedures and Audit) Regulations, 2002. The income and expenditure is broken down between the following 8 Divisions

1. Housing and building
2. Roads transportation and Infrastructure
3. Water Services
4. Development Management
5. Environmental Services
6. Recreation and Amenity
7. Agriculture, Education, Health and Welfare
8. Miscellaneous Services.

The Revenue Account (Operating account) covers the everyday expenses of the Council and includes areas such as housing maintenance, estate management, roads maintenance and restoration, land use planning, waste management, provision and operation of recreational facilities, administration and support costs, repayment of loan charges etc.

Balancing the Budget: The budget must balance, i.e. proposed expenditure must be met from proposed income, from whatever source.

Preparing the Budget: The budget process normally commences with the Head of Department submitting their budgets to the Director of Finance. The Director of Finance and the Chief Executive will prepare the draft budget which will then be presented to the Corporate Policy Group for consideration. At this stage the Local Property Tax variation will have been decided and the overall implication for the budget process will be known.

There are four main stages to the Local Authority Budgetary Process:

1. Agree the Budget Strategy and Local Property Tax Variation.
2. Develop Draft Budgetary plans for the Municipal Districts.
3. Draft and Adopt the Statutory Annual Budget.
4. Prepare the Schedule of Municipal District Works and Service Delivery Plan.

Local Property Tax: Central government agree the Local Property Tax (LPT) Allocations annually for the Local Authority. Some Local Authorities authorities are net contributors under the national equalisation model, with 20% of its allocation paid into an equalisation fund to ensure no local authority is worse off when compared to the 2014 General Purpose Grants allocations.

THE LOCAL AUTHORITY ANNUAL BUDGET & AFS

ANNUAL FINANCIAL STATEMENT (AFS) (End of year accounts):

The AFS is prepared in accordance with the Accounting Code of Practice and contains details of actual figures at year end. In accordance with the 2014 Act the AFS will

- I. be audited
- II. will contain the Auditor's report which will be provided to the Audit Committee for consideration
- III. will be presented by the Auditor who carried out the audit to the Audit Committee
- IV. The Audit Committee shall report its considerations to the Council
- V. The AFS and Auditors report shall be submitted to the Elected Members for consideration

REPORT ON CAPITAL PROJECTS:

Before the start of each Local Authority financial year the Chief Executive must prepare and submit to the elected members a report setting out the programme of capital projects proposed by the Council for a three-year period, having regard for available resources.

SCHEDULE OF MUNICIPAL WORKS

Following the adoption of the annual budget, a schedule of proposed works of maintenance and repairs to be carried out in each municipal district shall be prepared under the direction of the Chief Executive for adoption by the elected members of the Municipal Districts by resolution

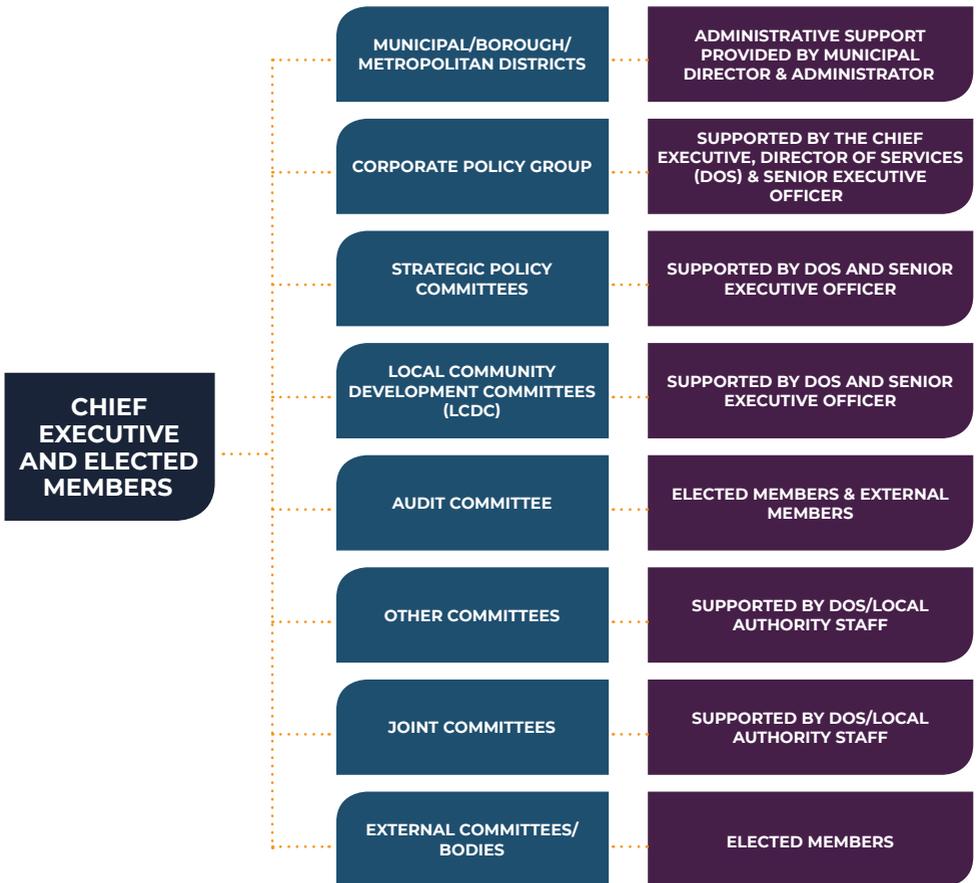
TIME FRAME FOR THE BUDGETARY PROCESS:

- I. Confirm decision on LPT by the 30th of September each year
- II. Agree overall General Municipal Allocation
- III. Consider other budget matters e.g. rates harmonisation (base year adjustments) and rates on vacant premises
- IV. Municipal/Metropolitan/Borough Districts consider draft budgetary plans to adopt same no later than 21 days prior to the Local authority budget meeting (reserved function). If the MD elected members do not adopt their draft budgetary plan the Chief Executive may take account of the draft budgetary plan as presented without amendment
- V. The adopted draft Municipal/Metropolitan/Borough District budgetary plans will be incorporated into the overall draft local authority budget
- VI. Statutory budget meeting convened during a period set out by the Minister (in November each year in order to finalise all budgets by 31st December)
- VII. Elected members have 14 days from the date of the first statutory meeting to adopt the budget
- VIII. Following the adoption of the budget a schedule of proposed works in each municipal district shall be prepared under the direction of the Chief Executive
- IX. The schedule of municipal district works shall be considered by the municipal district members concerned and be adopted by resolution, with or without amendment

COMMITTEES

LOCAL AUTHORITY COMMITTEES

- I. Municipal/Metropolitan/Borough Districts
- II. Corporate Policy Group
- III. Strategic Policy Committees
- IV. Local Community Development Committees (LCDC)
- V. Audit Committee
- VI. Other Committees
- VII. Joint Committees of the Council
- VIII. Appointments to External Committees/Bodies



COMMITTEES

1. MUNICIPAL/METROPOLITAN/BOROUGH DISTRICTS

Within the 31 Local Authorities there are 97 Municipal/Borough/Metropolitan Districts, representing 166 Local Electoral Areas. Members are simultaneously elected to the Municipal/Borough/Metropolitan District and to the local authority. The Municipal/Borough/Metropolitan District is not a separate Local Authority but a statutory decision-making body that is a local manifestation of the Local Authority, i.e. it is a platform for localised decision-making.

Provision is made for reserved functions at both Municipal/Borough/Metropolitan level and plenary level (County/City) with a default set of functions to be delivered at both levels set out in Appendix 1. Provision is also provided for in the Act to enable members at county level to determine further devolution of functions to the Municipal/Borough/Metropolitan district level. Local regulatory functions are the responsibility of the Municipal Districts with the determination of policy being done at plenary level. However, there must be consistency of policy between Municipal/Borough/Metropolitan level and plenary level.

2. CORPORATE POLICY GROUP

The Corporate Policy Group (CPG) consists of the Cathaoirleach/Mayor of the council, the Chairpersons of each Strategic Policy Committee and, where the Municipal/Borough/Metropolitan District is not already represented by the chairperson of the district or his/her nominee. The Corporate Policy Group (CPG) co-ordinates and links the work of the various SPCs and acts as a forum where policy decisions affecting the entire council can be agreed for recommendation to the full council.

3. STRATEGIC POLICY COMMITTEES

Strategic Policy Committees (SPCs) are local authority committees in City and County Councils whose membership includes elected councillors, representatives of business, farming interests, environmental/conservation groups, trade unions and community and voluntary members. It is the task of the Strategic Policy Committees (SPCs), as committees of the Council, to advise and assist the Council in the formulation, development and review of policy. They have no remit in relation to routine operational matters regarding the delivery of services. The SPC system is intended to give councillors and relevant sectoral interests an opportunity for full involvement in the policy making process from the early stages.

Sample list of SPCs include:

- I. Economic Development, Enterprise and Planning
- II. Transportation, Safety and Emergency Services
- III. Local Community and Cultural Development
- IV. Housing
- V. Environmental Services and Water

4. LOCAL COMMUNITY DEVELOPMENT COMMITTEES (LCDC)

The role of the LCDC is to enhance the strategic planning and coordination of local and community development activity. Local Community Development Committees comprises public and private sector members, including Local Authority members and officials, State agencies and private sector local and community development representatives.

COMMITTEES

5. AUDIT COMMITTEE

The Audit Committee has an independent role in advising the council on financial reporting processes, internal control, risk management and audit matters, as part of the systematic review of the control environment and governance procedures of the council.

6. OTHER COMMITTEES

Examples of other Local Authority Committees include:

- I. Joint Policing Committees - JPCs provide a forum where local authority and senior Garda Officers responsible for the policing of that area, with the participation of Oireachtas members and community interests, can consult, discuss and make recommendations on matters affecting policing of that area.
- II. Local Traveller Accommodation Consultative Committee - The Committee is representative of travellers, members of traveller support groups, elected members and officials of the local authorities
- III. Water Monitoring Committees
- IV. Twinning Committees

7. JOINT COMMITTEES

Joint Committees of a local authority include committees that may be established across two or more local authorities e.g. Joint Drainage Boards

8. EXTERNAL COMMITTEES/BODIES

Members are appointed to committees following the establishment of the new Council. These appointments are made at plenary council meeting and are generally for the term of the council. Members appointed to a committee are required to represent the Local Authority (Section 141 of Local Government Act 2001 as amended). Members nominated to another body are required to present a report on the activities and operation of the body annually or at any other time, if so requested by resolution or by the Cathaoirleach. The report should not include information which is confidential or which could not otherwise be disclosed.

External Bodies, at national and regional levels, that seek Local Authority nominations include: -

- I. Regional Assemblies
- II. HSE Forums
- III. Third Level Governing Bodies
- IV. Educational and Training Boards
- V. Cross Border Bodies
- VI. Sports Partnerships
- VII. Drugs Tasks Force
- VIII. River Basin Management Committees
- IX. Údarás na Gaeltachta and Forbartha Gaeilge.

COMMITTEES

At local level there are a multitude of local community and voluntary companies, boards, groups and committees which members are also nominated by their parent authority. In many instances, the creation and establishment of these local companies, boards and similar distinct corporate entities are for the purpose of delivering a range of functions or services on behalf of local authorities. Often these are specific local boards, to which councillors may be appointed such as boards of theatres/arts centres/sports facilities/community facilities etc. Such needs arise often because the council is a funding stakeholder in the organisation concerned or under the provisions of an old charter.

PLANS AND POLICIES

NATIONAL PLANS

- I. **Rebuilding Ireland** - six-year Social Housing Strategy sets out to fully meet our obligations to those who need assistance in providing a home for themselves
- II. **Ireland 2040 - National Planning Framework** - a 20-year strategy designed to enable every place in the country to reach its potential, no matter what its size or location
- III. **National Climate Change Adaptation Framework** - the Framework provides the policy context for a strategic national adaptation response to climate change in Ireland. Under the Framework, the relevant Government Departments, agencies and local authorities are asked to prepare sectoral and local adaptation plans
- IV. **NOAC Report** - Performance Indicators in Local Authorities

REGIONAL PLANS

- I. **Draft Regional Spatial and Economic Strategy (RSES)** - plan will identify the region's key strategic assets, opportunities and challenges and set out policy responses to ensure that people's needs - such as access to housing, jobs, ease of travel and overall well-being - are met, up to 2030 and beyond
- II. **Eastern - Midlands Region Waste Management Plan 2015 – 2021** - framework for the prevention and management of waste in a safe and sustainable manner

LOCAL STATUTORY PLANS

- I. **Corporate Plan** - sets out the strategic framework for action during the lifetime of the council
- II. **County Development Plan** – sets out an overall strategy for the proper planning and sustainable development of the functional area of the county over a 6-year period
- III. **Local Economic and Community Plan (LECP)** - sets out the strategic policy and the objectives and actions needed to promote and support the economic development, and the local and community development, of the local authority area
- IV. **Irish Language Scheme** - promotes the availability of public services through Irish and makes a contribution to sustaining the language in the county
- V. **Annual Report** - details the activities and achievements of the local authority in delivering services and infrastructural projects for the previous year
- VI. **Annual Service Delivery Plan** - sets out the objectives for service delivery and performance standards to be achieved for the year
- VII. **Annual Financial Statement** - the accounts of the local authority for the preceding year
- VIII. **Audit Committee Annual Report** - the report outlines the work of the committee in the previous year.
- IX. **Budget** - the Budget sets out the revenue budget for the coming year. It shows amounts estimated to meet expenses and provides for liabilities and requirements of the local authority for the financial year

PLANS AND POLICIES

- X. **Capital Programme** - the report outlines the programme of capital projects proposed by the local authority for the forthcoming, and following, two financial years having regard to the availability of resources
- XI. **Litter Management Plan** - the plan details the measures being taken by by the Local Authority in relation to litter prevention and control in the period ahead and it also sets out areas where we are looking to others to join us in taking action
- XII. **Local Area Plans** - sets out specific local area strategy for the proper planning and sustainable development of the functional area of the county
- XIII. **Strategic Policy Committees (SPC) Scheme** - sets out the structure and role of the SPCs
- XIV. **Climate Change Adaptation Plans**

BYE LAWS

Bye Laws

A local authority may make bye laws for, or in relation to, the use, operation, protection, regulation or management of any land, services, or any other matter provided by, or under the control or management of the local authority. (Part 19 of the Local Government Act 2001, as amended).

Examples of bye laws include: -

- I. Parking Bye Laws to regulate parking in an area
- II. Alcohol Bye Laws to regulate the consumption of alcohol in areas
- III. Cemetery Bye Laws to regulate burials
- IV. Public Parks
- V. Dog Fouling
- VI. Harbours & Beaches

ETHICS AND GOVERNANCE

The Local Government Act 2001 (Part 15) sets out an ethical framework and imposes a statutory duty on all in the local government service to maintain proper standards of integrity, conduct and concern for the public interest.

ROLE OF ETHICS REGISTRAR

The Ethics Registrar has a duty to notify members and relevant employees of the requirement to submit their annual declaration and must compile the public register of interests. No person shall perform the functions of an Ethics Registrar for a continuous period exceeding 2 years.

In the first week of January every year, or as soon thereafter in that month as circumstances permit, the Ethics Registrar must send to each member and relevant employee: -

- I. A notice/declaration informing them of the requirement to furnish an annual declaration. The notice draws attention to the elected members that:
 - a. they must declare that they have read the Code of Conduct for Councillors
 - b. they declare that they understand its meaning and sign it
- II. The prescribed annual declaration further requires each Elected Member to give an undertaking to have regard to and be guided by the Code of Conduct in the exercise of their functions.

When the Ethics Registrar has issued the forms, the fact of their issue must be brought to the attention of the next local authority meeting.

The annual declarations must be returned to the Ethics Registrar no later than the last day of February and entered into the register.

In a local election year, the Ethics registrar must send the notice and annual declaration form to each councillor who was not a member of the local authority in question immediately prior to the local election. Such notice must be sent within two weeks of the ordinary day of retirement. Councillors, who are re-elected to their 'own' authority, will have already complied with the relevant requirements when they submitted their Annual Declaration Forms in the previous January/February and will not be required to complete the form mid-year in an election year.

In local election areas, incoming members who were not members of the local authority in question immediately prior to the local elections, must return their forms within a period no later than 6 weeks from the ordinary day of retirement

DECLARABLE INTERESTS – SECTION.171

An annual declaration of interests must be made in respect of the following:

- I. Profession, Occupation etc. relating to dealing in, or developing land
- II. Other profession, Occupation etc.
- III. Land (ownership, interest) (includes all property e.g. buildings, dwellings etc.)
- IV. Company Business of dealing in land etc.
- V. Shares – value in excess of €12,697.38
- VI. Directorships

ETHICS AND GOVERNANCE

- VII. Gifts, Property and Services in excess of €634.87
- VIII. Local Authority Contracts in excess of €6,348.69
- IX. Political or Public Affairs, Lobbying etc.
- X. Any other Additional Interests

The Register of Interests is a Public Register and may be viewed by a member of the public on request. Copies of completed declaration forms are published on the Council Website

DISCLOSURE OF INTERESTS AT MEETINGS BY COUNCILLORS – SECTION.177

- I. Each Elected Member must disclose a pecuniary (i.e. financial) or other beneficial interest, of which he/she has “actual knowledge” of, or a connected person has, in a matter which arises at a meeting of the local authority or a meeting of a committee, joint committee or joint body of a local authority. He/she must take no part in the discussion or consideration of the matter. If he/she has “actual knowledge” that such a matter will arise at a meeting at which he/she will not be present, he/she must make a disclosure in writing to the Ethics Registrar in advance of the meeting.
- II. An Elected Member is prohibited from influencing or seeking to influence a decision of the local authority in respect of any matter in which he/she (or a connected person) has ‘actual knowledge’ of a pecuniary or other beneficial interest.

A connected person means a brother, sister, parent, spouse or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 of the person or a child of the person or of the spouse. (A spouse include a person with whom you are co-habiting.)

Failure to comply with the requirement of Section 171 or 177 of the Act is an offence.

LOCAL ELECTIONS (DISCLOSURE OF DONATIONS AND EXPENDITURE) ACT 1999

Local Elections (Disclosure of Donations and Expenditure) Act 1999

DONATION STATEMENTS

Every person who, in the preceding year, was a member of a local authority is required, under section 19E of the Local Elections (Disclosure of Donations and Expenditure) Act 1999 to furnish to their local authority, not later than January 31st, a donation statement indicating whether during the preceding calendar year the member received (from the same person), a donation exceeding €600 in value.

If a person makes more than one donation to the same member in the same year, the value of the donations must be aggregated and treated as a single donation. For each donation over €600, the value must be stated together with the name, and details of the person by, or on whose behalf, the donation was made.

With effect from 2013, the following additional information must now be provided on the donation statement:

- I. The date on which the donation was received
- II. Whether the donation was requested from the donor, and if so, the name of the person who requested the donation and
- III. Whether a receipt was issued to the donor in respect of the donation, and if so, the date on which the receipt was issued and the name of the person who issued the receipt.

The donation statement must be accompanied by a statutory declaration that, to the best of the member's knowledge and belief, the statement is correct in every material respect and that he or she has taken all reasonable action in order to be satisfied as to its accuracy.

WHAT IS DONATION UNDER THE ACT?

A donation to a member of a local authority means any contribution given for political purposes by any person, whether or not a member of a political party, to a candidate at an election or a member of a local authority, political party or third party in connection with an election, plebiscite or campaign which is accepted in whole or in part by or duly on behalf of such person and includes-

- I. Any donation of money
- II. Any donation of property or goods
- III. Any conferring the right to use, without payment or other consideration, indefinitely or for a specified period of time, any property or goods
- IV. Any supply of services without payment or other consideration therefore
- V. Any difference between the commercial price and the price charged for the purchase, acquisition or use of property or goods or the supply of any service where the price, fee or other consideration is less than the commercial price
- VI. In the case of a contribution made by a person in connection with an event organised for the purpose of raising funds for a candidate at an election, any proportion attributable to that contribution of the net profit, if any, deriving from the event, and
- VII. A payment by a person on their own behalf or on behalf of one or more than one other person, of a fee or subscription for membership or continued membership of a political party.

LOCAL ELECTIONS (DISCLOSURE OF DONATIONS AND EXPENDITURE) ACT 1999

Where a person makes more than one donation to the same member of a local authority in the same calendar year, the value of the donations must be aggregated and treated as a single donation.

PROHIBITED DONATIONS

A member of a local authority must not, either directly or through an intermediary, accept the following donations:

1. DONATIONS OVER THE STATUTORY LIMIT

A donation with a value exceeding €1,000 from the same donor in the same calendar year

If a person makes more than one donation to the same member in the same year, the value of the donations must be aggregated and treated as a single donation.

2. FOREIGN DONATIONS

A donation, of any value, from an individual (other than an Irish Citizen) who resides outside the island of Ireland or from a body corporate or an unincorporated body of persons which does not keep an office in the island of Ireland, from which at least one or more of its activities is directed.

3. ANONYMOUS DONATIONS

An anonymous donation exceeding €100 in value.

4. DONATIONS BY INTERMEDIARIES

An intermediary is 'a person who makes a donation on behalf of another person'. An intermediary must inform the recipient in writing that the donation is being made on behalf of another person and provide the name, description and postal address of the person on whose behalf the donation is being made.

5. CORPORATE DONATIONS

Donations given by a corporate donor to a member of a local authority, local election candidate, political party or third party cannot be accepted if they exceed €200, unless the corporate donor is registered with the Standards in Public Office Commission. If a unregistered corporate donor makes more than one donation to the same member in the same year, the value of the donations must be aggregated and treated as a single donation.

A donation above €200 from a registered corporate donor must also be accompanied by a statement that the making of the donation was approved by the members, shareholders or trustees of the donating body together with a statutory declaration from the donor.

6. CASH DONATIONS

The maximum amount that can be accepted by a member of a local authority as a cash donation in a calendar year from the same donor is €200.

POLITICAL DONATIONS ACCOUNTS

A member of a local authority, a local election candidate or a third party who receives, in any particular year, a monetary donation of more than €100 must open and maintain an account in a financial institution in the State and must lodge that donation and any further monetary

LOCAL ELECTIONS (DISCLOSURE OF DONATIONS AND EXPENDITURE) ACT 1999

donations received, of whatever value to that account (referred to as a political donations account).

Not later than January 31st in each year, a member of a local authority who was required to open a political donations account must furnish to the local authority, along with the donation statement, a statement provided by the financial institution where the political donations account was opened. The statement must specify the transactions that have taken place in relation to the account during the year together with a certificate stating that all monetary donations received during the year after the account was opened were lodged to the account and that all amounts debited from the account were used for political purposes.

The certificate must in each case be accompanied by a statutory declaration that, to the best of the local authority member's knowledge and belief, the certificate is correct in every material respect and that all reasonable action has been taken in order to be satisfied as to the accuracy of the certificate.

The local authority will retain the statement from financial institutions and the accompanying certificates and statutory declarations and will not disclose the contents thereof, unless ordered by a court to do so or where disclosure is required in connection with an investigation held by the local authority.

CODE OF CONDUCT FOR COUNCILLORS

Code of Conduct for Councillors

The Minister issued a Code of Conduct for Councillors under S.169 of the Local Government Act 2001 in 2004 (Revised 2019).

The purpose of the code is to set out principles, and standards of conduct and integrity for councillors, to inform the public of the conduct it is entitled to expect and to uphold public confidence in local government. This code is complemented by a separate code which applies to local authority staff.

Main Features of the Code Include: -

1. General Conduct and Behaviour
2. Conflict of Personal and Public Interest
3. Planning
4. Gifts
5. Hospitality
6. Personal Dealings with Local authority
7. Regard for Council Resources
8. Satisfactory Working Relationships
9. General

Regulation of Lobbying Act 2015

The Regulation of Lobbying Act 2015 came into operation on the 1st September 2015. The Act is designed to provide information to the public about lobbying, on whose behalf it is being carried out, what the issues involved in lobbying are, what the intended result of lobbying is and who is being lobbied. The Standards in Public Offices Commission are the regulator of lobbying.

As a Councillor you are a Designated Public Official (DPO). County Councils are required to publish a list of DPOs on their website. Guidance notes for Designated Public Officials and Guidance for Local Authority Members are both available at www.lobbying.ie.

All Designated Public Officials should identify themselves as such on their e-mail signature (including e-mails issuing from mobile devices) business cards and correspondence.

For example: -

Cllr. Joe Bloggs

Designated Public Official under the Regulation of Lobbying Act 2015 see www.lobbying.ie

The Act contains no statutory obligations regarding record keeping. However, it is advisable to review current record keeping practices and to ensure good record keeping habits are maintained. It is suggested you keep a note containing the following information. Date of meeting, names of those present and the organisations they represent, subject of meeting, related policy area, brief details of the meeting, decisions taken/ commitments made.

You should remind third parties at the beginning of a meeting that they may need to consider whether or not the communication they are having with you constitutes lobbying as defined in the Lobbying Act.

While there is no obligation, it is recommended you check the returns on www.lobbying.ie for your name/ meetings you attended.

There are specific guidelines on zoning and development. They can be found at www.lobbying.ie

When drawing up development plans or local area plans, local authorities engage in a formal public consultation process. This means members of the public may make a submission to the local authority setting out their views on the proposed plan. Making a person's views known to a local authority as part of a formal public consultation process is not lobbying.

Communicating with a Designated Public Official outside the formal public consultation process about a development plan or local area plan may be lobbying. However, communicating with a Designated Public Official outside the formal public consultation process on a proposal to zone or re-zone particular lands is always lobbying for the purposes of the Act. (For example, contacting a local TD or County Councillor about a development plan or a proposal to zone or re-zone particular lands outside the formal public consultation process).

GENERAL DATA PROTECTION REGULATIONS (GDPR)

GENERAL DATA PROTECTION REGULATIONS (GDPR)

A new European Union-wide framework known as the **General Data Protection Regulation (GDPR)** came into force across the EU on 25 May 2018. The purpose of the regulations is to oversee the use of personal data by organisations and control such use to protect the personal data and special category personal data.

PERSONAL DATA

Under the GDPR, personal data is data that relates to or can identify a living person, either by itself or together with other available information. Examples of personal data include a person's name, phone number, bank details and medical history.

SPECIAL CATEGORY PERSONAL DATA

Special category personal data (known as sensitive personal data under previous Irish legislation) means personal data relating to any of the following:

- I. The data subject's racial or ethnic origin, their political opinions or their religious or philosophical beliefs
- II. Whether the data subject is a member of a trade union
- III. The data subject's physical or mental health or condition or sexual life
- IV. Whether the data subject has committed or allegedly committed any offence
- V. Any proceedings for an offence committed or alleged to have been committed by the data subject, the disposal of such proceedings or the sentence of any court in such proceedings

The processing of special category data is prohibited unless the data subject has given their explicit consent before processing begins or the processing is authorised by law, for example, to protect the interests of a data subject, to comply with employment legislation or for reasons of public interest.

Personal data relating to criminal convictions and offences may only be processed under the control of an official authority.

A data subject is the individual to whom the personal data relates. You can read more in the document "Your Rights under the GDPR". (www.dataprotection.ie/en/individuals/rights-individuals-under-general-data-protection-regulation).

Organisations that collect or use personal data are known as data controllers and data processors. You can read about the obligations of data controllers and processors and the concepts and principles involved.

Elected members of Local Authorities are also data controllers and are subject to the GDPR regulations.

In Ireland the GDPR regulator is the Office of the Data Protection Commission and further information is available on their website - www.dataprotection.ie.

FREEDOM OF INFORMATION (FOI) AND THE ELECTED MEMBER

FREEDOM OF INFORMATION (FOI) AND THE ELECTED MEMBER

INTRODUCTION

The Freedom of Information Act 1997 (FOI Act) as amended by the Freedom of Information (Amendment) Act 2003 obliged government departments, the Health Service Executive (HSE), local authorities and a range of other public bodies to publish information on their activities and to make the information that they held, including personal information, available to citizens.

The Freedom of Information Act 2014 came into effect in October 2014 and repealed the 1997 and 2003 Acts. The 2014 Act introduced a number of changes to the Freedom of Information system and widened the range of bodies to which the FOI legislation applies - it now applies to all public bodies, unless they are specifically exempt. It also allows for the Government to prescribe (or designate) other bodies receiving significant public funds, so that the FOI legislation applies to them also.

RULES

The Freedom of Information Act 2014 provides the following statutory rights:

- I. A legal right for each person to access information held by a body to which FOI legislation applies – known as an FOI body
- II. A legal right for each person to have official information relating to himself/herself amended where it is incomplete, incorrect or misleading
- III. A legal right for each person to obtain reasons for decisions affecting himself/herself

Local Authorities are subject to the Freedom of Information Acts and elected members should bear in mind that any correspondence submitted by them to any Local Authority, including their own, may be released to any person submitting a valid FOI request. This applies to letters, email and text messages. Elected members need to bear this in mind when corresponding with a Local Authority.

REQUESTS FOR INFORMATION

Any person can ask for the following records:

- I. Any records relating to them personally, whenever they were created
- II. All other records created after a certain date, which is:
 - 21 October 1998 for the HSE and local authorities
 - 21 April 1998 for public bodies that were covered by the old FOI legislation
 - 21 April 2008 for public bodies that were not covered by the old FOI legislation
 - The date of the prescribing order (or a specified date) for prescribed bodies

A record can be a paper document or information held on computer. It includes, for example, printouts, maps, plans, microfilm, audio-visual material, disks and tapes. There is no longer any fee for making an FOI application to a Local Authority, but there may be fees where the cost of retrieving the record is significant and there are fees for appeals to the Office of the Information Commissioner.

HOW TO APPLY

It is important to note that you may not need to use the Freedom of Information Act to request information from an FOI body. A large amount of material is already available to the public through websites, information leaflets, publications and responses to enquiries. Most

FREEDOM OF INFORMATION (FOI) AND THE ELECTED MEMBER

organisations have a dedicated information section, which is available to assist you with general queries, requests for information and publications.

If the information you require is not readily available, you must make your request in writing to the FOI Unit of the body and your application should refer to the Freedom of Information Act 2014. If your application for information does not mention the Act, it will be dealt with as an ordinary request for information. If information is required in a particular form (for example, photocopy or searchable electronic format) you should specify this in your request.

Try to be as specific as you can, to help the body to identify the information you require. Where possible, try to indicate the time period for which you wish to access records (for example, records created between December 2017 and August 2018).

Under the Act, the FOI body must acknowledge a request for records within 2 weeks and, in most cases, respond to it within 4 weeks. If a third party is involved, there may be another 3 weeks before you receive a response.

You can find more information about making an FOI request on foi.gov.ie.

FOI REVIEW PROCEDURES

If you are not satisfied with the response of the FOI body to any aspect of your request for information (for example, refusal of information, form of access, charges) you can seek to have the decision re-examined. Also, if you have not received a reply within 4 weeks of your initial application (this is deemed to be a refusal of your request) you can seek to have the decision re-examined.

The internal review of an FOI decision is carried out by more senior members of staff within the body and must be made within 3 weeks. An application for review of a decision should be addressed to the FOI Unit of the body involved.

FOI APPEALS

If you are still unhappy with the decision, you have the right to appeal the decision to the Information Commissioner. The Information Commissioner investigates complaints of non-compliance with FOI legislation and generally promotes a freedom of information culture in the public service.

WHERE TO APPLY

Send your FOI request to the **FOI Unit of the body that holds the records**.

To ask for review of a decision, apply to the **FOI Unit of the body that made the decision**.

If you have a further appeal, you should address it to:

Office of the Information Commissioner
18 Lower Leeson Street,
Dublin 2, D02 HE97
Ireland

Opening Hours: **9.15am to 5pm, Mon-Friday**
Tel: **+353 (0)1 639 5689**
Homepage: **www.oic.ie**
Contact Form: **www.oic.ie/contact/**
Email: **info@oic.ie**

PROTECTED DISCLOSURES

The Protected Disclosures Act, 2014

The Protected Disclosures Act 2014 became operational on 15th July 2014. The Act is intended to provide a robust statutory framework within which workers can raise concerns regarding a potential wrongdoing that has come to their attention in the workplace in the knowledge that they can avail of significant employment and other protections if they are penalised by their employer or suffer any detriment for doing so.

"**Protected disclosure**" means the disclosure of relevant information, which in the reasonable belief of the worker tends to show one or more **relevant wrongdoings** and came to the attention of the worker in connection with their employment.

'**Worker**' includes employees, contractors, consultants, agency staff, former employees, temporary employees, and interns/trainees.

The following matters are **relevant wrong doings**: -

- a. that an offence has been, is being or is likely to be committed,
- b. that a person has failed, is failing or is likely to fail to comply with any legal obligation, other than one arising under the worker's contract of employment or other contract whereby the worker undertakes to do or perform personally any work or services,
- c. that a miscarriage of justice has occurred, is occurring or is likely to occur,
- d. that the health or safety of any individual has been, is being or is likely to be endangered,
- e. that the environment has been, is being or is likely to be damaged,
- f. that an unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has occurred, is occurring or is likely to occur,
- g. that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement, or
- h. that information tending to show any matter falling within any of the preceding paragraphs has been, is being or is likely to be concealed or destroyed.

LOCAL AUTHORITY PROTECTED DISCLOSURES POLICY

All Local Authorities are committed to ensuring that the culture and work environment are such that any employee/worker is encouraged and supported to report on any issue that may impact adversely on that Local Authority's ability to deliver a high quality service and in this regard they are required to introduce and implement policy procedures for the making of protected disclosures.

The purpose of the policy and procedure is to: -

- I. To encourage employees/workers to report internally any concerns (as soon as possible), they may have regarding potential wrongdoing in the workplace, in the knowledge that their concerns will be taken seriously investigated (where appropriate), and that their confidentiality will be respected, in the manner provided by the Protected Disclosures Act, 2014
- II. To highlight that it is always appropriate to raise such concerns when they are based on a reasonable belief irrespective of whether any wrongdoing is in fact subsequently identified

PROTECTED DISCLOSURES

- III. To provide employees/workers with guidance on how to raise concerns
- IV. To reassure employees/workers that they can report relevant wrongdoings without fear of penalisation

A copy of your Local Authority Protected Disclosures Policy and Procedures is available on the Council's website.

Audit Committee Protocol for dealing with receipt of disclosures about financial reporting or other financial matters: -

In accordance with the Local Government (Audit Committee) Regulations, 2014, which requires each Local Authority's Audit Committee to ensure that procedures are in place whereby employees of the Council may, in confidence, raise concerns about possible irregularities in financial reporting or other financial matters. The Local Authority protocol for dealing with receipt of disclosures about financial reporting or other financial matters under the Local Government (Audit Committee) Regulations, 2014 and in accordance with the Protected Disclosures, Act, 2014 should be available on the Council's website.

Each Local Authority has a designated officer to receive protected disclosures with details obtained from the Meetings Administrator.

GENERAL INFORMATION ON ELECTED MEMBERS REMUNERATION, PAYMENTS AND EXPENSES

Provisions for the remuneration and other payments, allowances and expenses for Local Authority Members are governed under regulation and direction by the Minister for Housing, Planning and Local Government.

Details of the current regulations are provided for under article 17 of the Local Government (Expenses of Local Authority Members) Regulations 2014-2017 (S.I. No. 236 of 2014 & S.I. No. 494 of 2017). These directions should be read in conjunction with section 142 (as amended) of the Local Government Act 2001 generally with respect to expenses, and with section 143 with respect to any allowances for chairpersons, and the fore-mentioned Regulations. They replace all previous directions regarding expenses and allowances of elected members.

However, please note provision for the remuneration and other payments for Local Authority Elected Members are currently subject to an independent review. Once this review has been completed its findings will be the subject of discussion between the Departments of Housing, Planning and Local Government and Public Expenditure and Reform in the context of the arrangements provided for elected members under section 142 of the Local Government Act 2001, as amended and will be submitted thereafter for the consideration of the Government.

REPRESENTATIONAL PAYMENT

The Representational Payment is a salary type payment currently this is set at €17,060 Gross per annum. This payment is usually payable on a fortnightly basis and is subject to Tax, PRSI and Universal Social Charge. This Payment is currently governed by Circular LG03/2018.

MUNICIPAL/METROPOLITAN/BOROUGH DISTRICT AND AREA ALLOWANCE

This additional payment of €1,000 gross per annum was introduced in 2017. This payment is usually payable with the representational payment and is also subject to Tax, PRSI and USC.

ANNUAL FIXED ALLOWANCE FOR EXPENSES

This is a fixed allowance payable to members on a monthly basis and is a tax-free allowance. The purpose of this allowance is to cover travel, subsistence and fixed costs for attendance at local authority meetings. The allowance has 3 elements to it as follows: -

I. TRAVEL ELEMENT

This element of the allowance is to cover members travel costs for attendance at local authority meetings. It is based on the distance a member has to travel to attend meetings (i.e. distance from place of residence to local authority HQ). A pre-determined index is used to calculate how many meetings are used in the calculation. There is a minimum distance used in the calculation.

II. SUBSISTENCE ELEMENT

This element of the allowance is to cover members subsistence costs for attendance at local authority meetings. This element is also calculated on the predetermined meeting index and the over 10-hour subsistence rate is used in this calculation.

III. FIXED ELEMENT (UNVOUCHED)

The final element of this allowance is an unvouched fixed element payable to cover administrative expenses e.g. postage, printing, stationery etc. The amount of this allowance ranges from €2,286 to €2,667 per annum.

GENERAL INFORMATION - REMUNERATION & ALLOWANCES

Full details of these allowances are set out in Circular LG01/2018 and SI494 of 2017.

Please note that if members fail to attend 80% of the meetings to which they are invited, their annual expenses are reduced on a pro-rata basis.

VOUCHED ANNUAL FIXED ALLOWANCE FOR EXPENSES

Elected Members may opt to avail of a higher vouched Fixed Allowance of €5,500 instead of the Unvouched Fixed Allowance detailed in point III above. It is a matter for each individual member to choose if he or she wants to continue to claim the unvouched fixed annual rate or forego this payment to instead claim vouched annual expenses. Expenditure incurred by a member must be wholly and exclusively incurred in the performance of his or her duties as a member and should not include any personal element of expenditure. Members who choose to claim vouched expenses must provide written notification to the local authority within a reasonable time limit set by the local authority. Receipts must be produced for all vouched expenditure.

MOBILE PHONE ALLOWANCES

Members can avail of the corporate package and are reimbursed 50% of their costs. Those who do not avail of the package can claim costs of 50% of their annual mobile phone costs up to a limit of €600.

OTHER ALLOWANCES

Other allowances are available for chairing committees of your Local Authority. Elements of these allowances may be subject to Tax, PRSI & USC and include: -

- I. Cathlaoirleach/Mayors Allowance
- II. SPC Chair Allowance
- III. Municipal/Metropolitan/Borough District Chair Allowance

ELECTED MEMBERS TRAINING & DEVELOPMENT

A training and development programme should be agreed by the members and elected members can determine their own appropriate training budget for the provision of appropriate elected member training.

In conjunction with appropriate in-house member training provided by your local authority, training for councillors is also organised by the AILG (Association of Irish Local Government) through their regional training days. Members are advised of upcoming training events in their region and full details can be obtained from the corporate services section of their local authority or from the AILG at info@ailg.ie and on the AILG website at www.ailg.ie. Training includes all AILG events whether described as conferences, seminars or training days. Approval to attend training events is a reserved function and must be approved at a council meeting.

CONFERENCE ALLOWANCE (EVENTS EXTERNAL TO TRAINING)

Conference allowance €700 per member per year (Can be increased to €1,000 subject to overall amount not exceeding €700 per member). Conference fee is payable from this allowance.

PROVISION OF IT EQUIPMENT

Elected Members are normally provided with appropriate IT equipment by their Local Authority.

GENERAL INFORMATION - REMUNERATION & ALLOWANCES

MEMBER'S INSURANCE

There are two schemes currently available to members

- I. Personal Accident
- II. Public Liability

The schemes are underwritten by IPB and are optional to join.

Appendix 1 – Reserved Functions

The 2014 Act lists the reserved functions of local authorities, that is, those functions which must be carried out by the elected representatives. Many of the functions described in the lists are matters of procedure e.g. the convening and conduct of meetings. The following are the main functions which have an impact on the public:

DECISIONS BY MUNICIPAL DISTRICT MEMBERS

- I. Adoption of statements regarding the economic elements of the local economic and community plan for the consideration of the full county or city and county council
- II. Making amendments to a draft budgetary plan
- III. Adoption of an annual schedule of proposed works to be carried out in the district
- IV. Establishing a community fund for the support of community initiatives. A community initiative is any project or programme which, in the opinion of the local authority, will benefit the local community and includes the provision or improvement of amenity, recreational, cultural or heritage facilities, the protection or enhancement of the environment and programmes to promote social inclusion and community development. Local authorities have the power to establish a community fund in order to support community initiatives and may accept contributions to such a fund by any voluntary, business or community group, other local authority or public authority or other person and may itself make contributions to such fund
- V. Adopting a scheme for the making of an annual contribution to the residents in the area to which the scheme applies towards particular community initiatives specified in the scheme
- VI. Deciding, subject to the approval of the Minister, that a particular function of the municipal district members should be performed only by the local authority
- VII. Delegation to a designated body of a function (including maintenance) in respect of the management and control of dwellings
- VIII. Arrangements in relation to school wardens
- IX. Orders declaring a road to be a public road and abandoning a public road
- X. Orders extinguishing a public right of way
- XI. Resolutions specifying the places in which vehicles may be parked either indefinitely or for a specified period
- XII. Making of bye-laws for the control and regulation of parking on public roads, including parking fees
- XIII. Decisions on traffic calming measures
- XIV. Decisions on taxi stands
- XV. Tree preservation orders
- XVI. Control of casual trading
- XVII. Extinguishment of a market right
- XVIII. Prevention and control of litter and making of litter management plans
- XIX. Making submissions to a fire authority regarding a proposed indoor event that requires a licence

APPENDIX 1

- XX. Resolution on the expiry times of a special exemption order for liquor licences
- XXI. Bye-laws in respect of the use of temporary dwellings and orders in relation to the creation and retention of temporary dwellings
- XXII. Bye-laws in relation to national monuments of which the local authority is the owner or guardian
- XXIII. Proposal to change place names, including decisions on whether or not a vote is to be held on the issue
- XXIV. Charges for local authority amenities, facilities and services

DECISIONS BY MUNICIPAL DISTRICT MEMBERS OR FULL LOCAL AUTHORITY

- I. Civic honours
- II. Twinning arrangements with other areas
- III. Approving a proposal of the chief executive to grant permission for the development of land which would contravene materially the development plan or local area plan
- IV. Local area plans
- V. Protected structures
- VI. Special planning control schemes
- VII. Creating a public right of way
- VIII. Housing services plans
- IX. Providing assistance for the promotion of the interests of the local community
- X. Flood risk management plans

DECISIONS BY FULL LOCAL AUTHORITY

- I. Making the integrated local economic and community plan
- II. Implementing the economic elements of the plan
- III. Adopting the draft local authority budget
- IV. Decisions in relation to rates including the annual rate on valuation to be levied, decisions in relation to refunds for vacant premises, waiver of rates and payments by instalment
- V. Delegation of additional functions to municipal district members
- VI. Approving the corporate plan
- VII. Adopting the draft local authority service delivery plan
- VIII. The appointment of the chief executive
- IX. Special amenity area orders, landscape conservation area orders
- X. Nominating candidates for the Presidency
- XI. Housing decisions, including the order of priority for local authority housing and affordable housing, local authority house purchase schemes, Traveller accommodation programmes, differential rent schemes and homelessness action plans

APPENDIX 1

- XII. Decisions on local and regional roads, including the imposition of tolls on such roads
- XIII. Special speed limits (the Road Traffic Acts set out a range of speed limits including ordinary speed limits, built-up area limits, national roads and motorway limits; a local authority may set special speed limits for the roads in its area)
- XIV. Control of skips on public roads
- XV. Development plans
- XVI. Development contribution schemes
- XVII. Planning schemes for strategic development zones
- XVIII. Decisions in relation to fire services
- XIX. Air quality management plans and pollution control orders
- XX. Various decisions in relation to water supply and water quality management
- XXI. Harbours
- XXII. Horse control areas
- XXIII. Waste collection
- XXIV. Library development
- XXV. School meals
- XXVI. Control of dogs
- XXVII. Variation of the rate of Local Property Tax
- XXVIII. Appointment of members of local community development committee
- XXIX. Approving a local and community development programme
- XXX. The adoption of a Framework for Public Participation in Local Government

RESERVED FUNCTIONS BY PROGRAMME

The following list of reserved functions set out for each programme may be helpful in allowing you to get an overview of the policy role performed by the elected council:

Housing and Building

- I. Making or amending a scheme of letting priorities (Section 11, Housing Act, 1988)
- II. Adoption of a Traveller Accommodation Programme
- III. Making a scheme of letting priorities for Affordable Housing

Road Transportation and Safety

- I. Taking roads in charge (Section 11, Roads Act, 1993)
- II. Extinguishing a public right of way over a road no longer required for public use (Section 73, Roads Act, 1993)

Development Incentives and Controls

- I. Making or varying a Development Plan

APPENDIX 1

- II. Requiring the granting of a permission which would contravene materially the Development Plan or any Special Amenity Area Order
- III. Revoking or modifying a permission to develop land
- IV. Making a Planning Contribution Scheme

Environmental Protection

- I. Making of bye-laws relating to the control of dogs
- II. Making a Litter Management Plan

Recreation and Amenity

- I. Contributing to swimming facilities, art facilities, museums
- II. Civic improvement, provision of amenities, general recreation and leisure activities

Agriculture, Education, Health and Welfare

- I. Appointing persons to serve as members of harbour authorities, educational training boards and certain other bodies

Miscellaneous Services

- I. Authorising the disposal of land owned by a local authority
- II. Making a polling scheme
- III. Nominating a person to be a candidate at an election for the office of President of Ireland

Financial Functions

- I. Adopting the budget and fixing the annual rate of valuation
- II. Borrowing money
- III. Determining variation of Local Property Tax

General

- I. Making, amending or revoking a bye-law
- II. Entering into an agreement with another local authority for the discharge of functions of the other local authority
- III. Deciding to confer a civic honour
- IV. Adoption of the annual report

APPENDIX 2

Appendix 2 – Functions of Local Authorities

Programme Groups

The Council's activities are subdivided into eight Programme Groups, namely: Housing and Building; Road Transportation and Safety; Water Supply and Sewerage; Development Incentives and Controls; Environmental Protection; Recreation and Amenity; Agriculture, Education, Health and Welfare; and Miscellaneous Services.

1. HOUSING AND BUILDING

Management and provision of local authority housing; RAS/HAP Programmes; assistance to persons housing themselves or improving their houses; settlement of travellers, homeless etc.

2. ROAD TRANSPORTATION AND SAFETY

Road upkeep and improvement; public lighting; traffic management facilities; road safety; collection of motor taxation; licensing of drivers etc.

3. WATER SUPPLY AND SEWERAGE

Public water supply and sewerage; assistance for private water and sewerage facilities; public conveniences, etc.

4. DEVELOPMENT INCENTIVES AND CONTROLS

Physical planning policy, control of new development and building, unfinished estates, promotion of industrial and other development, tourism promotion, Community & Enterprise (LCDCs), Economic Development (LEOs), Heritage and Conservation Services, etc.

5. ENVIRONMENTAL PROTECTION

Waste collection and disposal; litter control, burial grounds; safety of structures and places; fire protection; pollution control, etc.

6. AGRICULTURE, EDUCATION, HEALTH AND WELFARE

Swimming pools; libraries, parks; open spaces; recreation centres; conservation and improvement of amenities, arts activities, etc.

7. AGRICULTURE, EDUCATION, HEALTH AND WELFARE

Veterinary service, joint drainage committees, coastal protection, operation/maintenance of piers & harbours, educational support services.

8. MISCELLANEOUS SERVICES

Financial management and rate collection; elections; courthouses; coroners and inquests, consumer protection measures; malicious injuries, etc.

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