



Comhshaol, Pobal agus Rialtas Áitiúil
Environment, Community and Local Government



LG 10 /2014

29 May 2014

Local Government Reform Act 2014

Local Government (Performance of Reserved Functions in Respect of

Municipal District Members) Regulations 2014 and Guidelines

I am directed by the Minister for the Environment, Community and Local Government to refer to circular letter LG 05/2014 (26 May 2014) in connection with the commencement of outstanding provisions of the Local Government Reform Act 2014; the appointment of the '2014 establishment day'; and the specification of the 'transfer date'. As signalled in that circular, a range of regulations and guidance material is in preparation: this circular deals with regulations and guidelines relating to the exercise and performance of reserved functions by municipal district members.

Exercise and performance of reserved functions by municipal district members

1. Section 131A of and Schedule 14A to 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 to be performed exclusively by municipal district members; or by municipal district members or the plenary council; or by the plenary council only. The policy approach (as set out originally in the *Action Programme for Effective Local Government*) has been that the exercise of municipal district functions would be subject to certain general provisions and the 2014 Act provides the Minister with the power to make regulations specifying conditions, restrictions and procedures to apply together with a power to issue guidelines.

Local Government (Performance of Reserved Functions in Respect of Municipal District Members) Regulations 2014 (S.I. 231 of 2014)

2. The Local Government (Performance of Reserved Functions in Respect of Municipal District Members) Regulations 2014 were signed by the Minister on 29 May 2014 (see copy at Appendix 1). The regulations include provisions to assist in the effective exercise and performance of reserved functions by the municipal district members forming part of the elected council of a county

council¹ or city and county council. Appendix 2 sets out a series of explanatory notes on the regulations.

3. In the context of the performance and exercise of reserved functions by municipal district members, the regulations provide for the following matters: -
 - the need for consistency with policy, strategy, programmes or plans of the local authority;
 - avoidance of unnecessary duplication;
 - requirements on the elected council of the local authority to perform a function where it is to be performed in every municipal district;
 - a right of ‘call in’ by the elected council of the local authority in circumstances where the exercise and performance of certain municipal district functions could have significant implications for the administrative area of a local authority or another municipal district;
 - certain functions not to be delegated to municipal district members;
 - performance of certain delegated functions in particular instances by the elected council of the local authority;
 - resolution of differences and disagreements; and
 - a prohibition on the exercise by either the elected council of the local authority or municipal district members where the function should be properly exercised by the other group of elected members.

Ministerial guidelines under section 131A(6) of the Local Government Act 2001 (as amended)

4. Section 131A(6) of the Local Government Act 2001 (as inserted by section 21(3) of the Local Government Reform Act 2014) provides that the Minister may issue guidelines to local authorities for the purpose of any provision of section 131A dealing with the performance of reserved functions. In accordance with this power, the Minister now issues guidelines to this effect (details at Appendix 3). The guidelines, which local authorities are required to comply with in the performance of reserved functions, effectively supplement the provisions of the Local Government Act 2001 (as amended by the Local Government Reform Act 2014) and S.I. 231 of 2014. Some of the key areas covered in the guidelines include: -
 - Reserved functions not performed in accordance with the Act, S.I. 231 of 2014 and the guidelines shall be invalid irrespective of whether or not the chief executive has provided advice in that regard to the members (requested by the Advisory Group to cover any instance where the chief executive overlooked to so advise members).

¹ Other than the councils of Dun Laoghaire, Fingal and South Dublin.

- Functions should not be delegated for a particular instance only or for a limited period of time.
- Where municipal district member wish to cede a reserved function to the plenary council and seek approval to do so in accordance with section 131A(4) approval will not be forthcoming where the transfer is in respect of a specific instance or is for a limited time period.
- The Department must be notified of any function which has been delegated to the municipal district members.

The Guidelines recognise that the operation of the municipal district system will need to be reviewed closely. Local authorities should bring any issue arising to the attention of the Department for consideration and adjustment of guidelines, etc., if necessary.

Queries/Comments

5. Any general queries or comments in relation to the above should be directed to Michael Murphy at 01– 8882162 (michael.murphy@environ.ie); or Veronica Healy at 01–8882388 (veronica.healy@environ.ie).

Denis Conlan,
Principal,
Local Government Development Section.

To each City/County/City and County Manager

STATUTORY INSTRUMENTS.

S.I. No. 231 of 2014

LOCAL GOVERNMENT (PERFORMANCE OF RESERVED FUNCTIONS IN
RESPECT OF MUNICIPAL DISTRICT MEMBERS) REGULATIONS 2014

S.I. No. 231 of 2014

LOCAL GOVERNMENT (PERFORMANCE OF RESERVED
FUNCTIONS IN RESPECT OF MUNICIPAL DISTRICT MEMBERS)
REGULATIONS 2014

I, PHIL HOGAN, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by sections 4 and 131A(5) (inserted by section 21(3) of the Local Government Reform Act 2014 (No. 1 of 2014)) of the Local Government Act 2001 (No. 37 of 2001) (as adapted by the Environment, Heritage and Local Government (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 193 of 2011)), hereby make the following regulations:

Citation

1. These Regulations may be cited as the Local Government (Performance of Reserved Functions in Respect of Municipal District Members) Regulations 2014.

Commencement

2. These Regulations come into operation on 1 June 2014.

Interpretation

3. (1) In these Regulations—

“Act of 2001” means the Local Government Act 2001 (No. 37 of 2001);

“guidelines” means guidelines issued by the Minister under section 131A(6) of the Act of 2001;

(2) In these Regulations a reference to Cathaoirleach or Leas-Chathaoirleach shall be read as the Cathaoirleach or Leas-Chathaoirleach of the municipal district.

(3) In these Regulations a reference to elected council of the local authority shall be read in accordance with section 131A(1) of the Act of 2001.

Consistency and avoidance of duplication

4. (1) The municipal district members shall not exercise and perform any reserved function in respect of a municipal district in any instance where the exercise and performance of the function would give rise to—

(a) inconsistency with any policy, strategy, programme or plan of the local authority, or

(b) unnecessary duplication in the performance of functions between the municipal district members in different municipal districts in the

administrative area of the local authority or between the municipal district members in a municipal district and the elected council of the local authority, as appropriate.

(2) Where the municipal district members propose to exercise and perform a reserved function and the chief executive, following consultation with the Cathaoirleach or Leas-Chathaoirleach, forms an opinion that the exercise and performance of the function, in that instance, would give rise to inconsistency or unnecessary duplication in relation to any of the matters referred to in paragraph (1), then he or she shall advise the members accordingly and the provisions of paragraphs (3) and (4) shall apply.

(3) Where the municipal district members have been advised by the chief executive in accordance with paragraph (2), the members—

- (a) may, by resolution, decide to refer the matter to the corporate policy group for consideration with regard to the issue of inconsistency or unnecessary duplication in relation to any of the matters referred to in paragraph (1), and
- (b) shall not proceed with the exercise and performance of the function unless the corporate policy group indicates that, in its view, the exercise and performance of the function as proposed in that instance, would not involve any such inconsistency or unnecessary duplication.

(4) Where the municipal district members exercise and perform a reserved function they shall, subject to the provisions of the Act of 2001, these Regulations and any guidelines, do so definitively and without reference to the elected council of the local authority for the purpose of any ratification or acceptance.

Exercise and performance of certain reserved functions by the elected council of the local authority in particular circumstances

5. (1) In the case of any reserved function specified in paragraph 5, 6 or 7 of Schedule 14 and Part 2 of Schedule 14A to the Act of 2001 which, in a particular instance, is to be exercised and performed in respect of every municipal district in the administrative area of a local authority, such function shall, in that instance, be performed only by the elected council of the local authority.

(2) The reserved functions specified in the Schedule (and identified from Part 2 of Schedule 14A to the Act of 2001) shall be exercised and performed only by the elected council of the local authority where the exercise and performance of the function in a particular instance in respect of a municipal district could have significant implications for the administrative area of the local authority, or a municipal district other than the district in respect of which the function is to be exercised and performed.

Certain reserved functions not to be delegated

6. The elected council of the local authority shall not delegate to municipal district members under section 131A(2) of the Act of 2001 any reserved function specified in Part 3 of Schedule 14A of the Act of 2001 where—

- (a) the function is to be exercised and performed in respect of the administrative area of the local authority,
- (b) the exercise and performance of the function by municipal district members could have significant implications for the administrative area of the local authority,
- (c) the function relates specifically to the elected council of the local authority, or
- (d) the nature of the function is such that it could not reasonably be performed other than by the elected council of the local authority.

Exercise and performance of delegated reserved functions by the elected council of the local authority instead of the municipal district members in a particular case or occasion

7. Where the elected council of the local authority considers that the exercise and performance of a reserved function which has been delegated to the municipal district members in accordance with section 131A(2) of the Act of 2001 in a particular case or occasion could have significant implications for-

- (a) the administrative area of the local authority, or
- (b) a municipal district other than the district in respect of which the function is to be exercised and performed,

then the elected council may, by resolution, decide that such a function in respect of a municipal district shall be exercised and performed only by the elected council of the local authority in that particular case or occasion.

Resolution of difference or disagreement regarding exercise and performance of reserved functions by the elected council of the local authority or the municipal district members

8. (1) Where the municipal district members propose to exercise and perform a reserved function and the chief executive, following consultation with the Cathaoirleach or Leas-Chathaoirleach, forms an opinion that, in accordance with the provisions of the Act of 2001, these Regulations and any guidelines, the function should be exercised and performed, or should in that instance be exercised and performed, by the elected council of the local authority rather than the municipal district members, then he or she shall advise the municipal district members accordingly and the provisions of paragraphs (2) and (3) shall apply.

(2) Where the municipal district members have been advised by the chief executive in relation to the exercise and performance of a function in accordance with paragraph (1), the members may, by resolution, decide to refer the matter to the corporate policy group for consideration as to whether, in its view, the function should be exercised and performed, or should in that instance be exercised and performed, by the elected council of the local authority or by the municipal district members.

(3) Where a matter has been referred to the corporate policy group for consideration in accordance with paragraph (2), the municipal district members shall not proceed with the exercise and performance of the function in that instance unless the corporate policy group indicates that, in its view, the function should be exercised and performed, or should in that instance be exercised and performed, by the municipal district members.

Prohibition on the exercise and performance of reserved functions

9. (1) The municipal district members shall not exercise and perform a reserved function which by virtue of the Act of 2001, these Regulations or any guidelines is a function to be exercised and performed by the elected council of the local authority only or should be exercised and performed only by the elected council of the local authority in a particular instance.

(2) The elected council of the local authority shall not exercise and perform a reserved function which by virtue of the Act of 2001, these Regulations or any guidelines is a function to be exercised and performed only by the municipal district members.

Exercise and performance of reserved functions generally

10. (1) The elected council of the local authority and the municipal district members shall execute and perform reserved functions in accordance with the Act of 2001, these Regulations and any guidelines.

(2) Any resolution purporting to be adopted for the purpose of the exercise and performance of a reserved function which is not in compliance with paragraph (1) shall be deemed to be invalid and to have no effect.

SCHEDULE

Regulation 5(2)

Reference No. (as set out in column (1) in Part 2 of Schedule 14A to the Act of 2001) (1)	Description of reserved function (as set out in column (2) in Part 2 of Schedule 14A to the Act of 2001) (2)
11	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.
12	A decision in relation to the making, amendment or revocation of a local area plan within the meaning of the Act of 2000.
13	The making of an addition to, or a deletion from, a record of protected structures to which Part IV of the Act of 2000 relates.
14	Approving, amending or revoking a special planning control scheme.
15	Deciding to vary or modify a proposed local authority own development, or deciding not to proceed with the development.
16	Making, or refusing to make an order creating a public right of way over any land.
17	Deciding to vary or modify, or not to proceed with, an event proposed to be carried out by a local authority.
18	The preparation, making, adoption or variation of a housing services plan, or draft plan.
20	A decision by a local authority to provide assistance in money or in kind under section 66 for promotion of the interests of the local community.



GIVEN under my Official Seal,
29 May 2014.

PHIL HOGAN,
Minister for the Environment, Community and Local
Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

These Regulations set out conditions, restrictions and other procedure to apply to the performance of reserved functions in respect of municipal district members forming part of the elected council of a county council (other than the councils of Dun Laoghaire, Fingal and South Dublin) or city and county council. They should be read in conjunction with section 131A of and Schedule 14A to the Local Government Act 2001 (as inserted by section 21(3) and 21(4) of the Local Government Reform Act 2014).

The Regulations provide for matters such as the need for consistency with policy, strategy, programmes or plans of the local authority; avoidance of unnecessary duplication; requirements on the elected council of the local authority to perform a function where it is to be performed in every municipal district; a right of “call in” by the elected council of the local authority in circumstances where the exercise and performance of certain municipal district functions could have significant implications for the administrative area of a local authority or another municipal district; certain functions not to be delegated to municipal district members; performance of certain delegated functions in particular instances by the elected council of the local authority; resolution of differences and disagreements; and a prohibition on the exercise by either the elected council of the local authority or municipal district members where the function should be properly exercised by the other group of elected members.

**Local Government (Performance of Reserved Functions in Respect of
Municipal District Members) Regulations 2014**

S.I. 231 of 2014

Explanatory Notes

Introduction

1. The reserved functions of the elected council of a local authority will, in future, be exercisable by the elected members at two levels. Specified functions will generally be performed at district level by the members elected for the municipal district in respect of the district, while the plenary county council or city and county council (in the case of Limerick and Waterford) will perform county-wide functions and in certain cases, functions in respect of municipal districts.
2. Section 131A of the Local Government 2001 (inserted by section 21(3) of the Local Government Reform Act 2014) provides that a standard or core set of reserved functions will be performed in respect of the municipal district exclusively by the municipal district members. These functions are set out in Part 1 of Schedule 14A to the 2001 Act (inserted by section 21 of and Schedule 3 to the 2014 Act) and paragraphs 1 and 3 of Schedule 14 to the 2001 Act.
3. The functions contained in Part 2 of Schedule 14A to the 2001 Act (as amended by the 2014 Act) along with paragraphs 5, 6 and 7 of Schedule 14 to the 2001 Act are exercisable by either the plenary county council or city and county council or by the municipal district members in respect of the district, depending on the circumstances, which are provided for in the S.I. 231 of 2014 and outlined in these notes.
4. The functions specified in Part 3 of Schedule 14A to the 2001 Act (as amended by the 2014 Act), along with paragraphs 2, 4 and 8 of Schedule 14 to the 2001 Act, can only be performed by the plenary council, subject to possible delegation to municipal district level, in accordance with the regulations.
5. The performance of functions by municipal district members is also subject to relevant budgetary provisions and procedures which are the subject of separate regulations and guidance.

Circumstances in which functions in Part 2 of Schedule 14A Act are to be performed by plenary county council rather than municipal district members.

6. One of the main purposes of the regulations is to clarify the circumstances in which reserved functions specified in Part 2 of Schedule 14A to the 2001 Act (as amended by the 2014 Act) are to be performed by the plenary county council or city and county council, or by the municipal district members. It is

important to note, in the first instance, that the functions in Part 2 of Schedule 14A are performed by the municipal district members only in respect of their municipal district. Accordingly, functions such as those specified at Reference Nos. 5, 6, 7, 8, 9, 19 and 21 should only be performed by the municipal district members in so far as they relate to the district. In the event of any doubt regarding the scope of the municipal district members' functions in particular instances, the Corporate Policy Group (CPG) should be consulted.

7. Regulation 5 provides further demarcation in the roles of the members at different levels in certain circumstances and a procedure to deal with possible disagreements in that regard is provided for in regulation 8. These provisions are pursuant to section 131A(5)(b)(vii) of the 2001 Act (as amended by the 2014 Act). References in the regulations to *'the elected council of the local authority'* relate to the plenary council.
8. Regulation 5(1) provides that where, in a particular instance, a function is to be performed in respect of every district in a county, or city and county, it must be dealt with by the plenary local authority. This, in effect, relates to a case where a function is to be performed uniformly on a county-wide basis. Taking, for example, the function at Reference No. 2 in Part 2 of Schedule 14A, if it is proposed to twin a county with some similar type area, this would be decided by the plenary council. However, if twinning between towns is proposed, that would be a matter for the relevant municipal district members to decide.
9. The statutory guidelines in relation to S.I. 231 of 2014 set out the approach where any function (e.g. certain bye-laws or plans) involves a combination of generic matters, which should be decided by the plenary council to apply uniformly to all districts, and specific local provisions to be decided by the municipal district members.
10. Regulation 5(2) provides for further circumstances in which specified functions in Schedule 14A, Part 2 (listed in the Schedule to the regulations) are to be dealt with by the plenary county council, or city and county council rather than the municipal district members in a particular instance. This, in effect, gives the plenary council power to 'step in' and perform a function, in that instance, instead of the municipal district members in certain circumstances, as follows:
 - (a) where the matter that is to be dealt with could have significant implications for the local authority or the county or city and county as a whole even if the function is only being performed in respect of a particular district; or
 - (b) where it could have significant implications for a municipal district other than the district in respect of which the particular function is to be performed in that instance.
11. The circumstances provided for at paragraphs 10(a) and (b) could arise from the nature of the function to be performed e.g. if it is something that would be of strategic importance to the county or city and county as a whole. Equally, the plenary council might decide that it is necessary to step in and decide a matter in place of the municipal district members because it is considered that the decision that the latter propose to take would have wider implications. The type of circumstances in which this might arise could include, for example,

where a decision in relation to a proposal to grant planning permission (Reference No. 11) in respect of a development was considered to have potentially significant implications beyond the district in which it is proposed.

12. Many of the functions in Part 2 of Schedule 14A to the 2001 Act (as amended by the 2014 Act) are, by their nature, either-

- relevant only to the municipal district members, for example, determining the policy of the municipal district members (Reference No. 5), or
- would not arise in the context of regulation 5(1) on a county-wide basis.

Such matters are, accordingly, excluded from the list of functions identified in the Schedule to the regulations as functions to which regulation 5(2) could apply.

13. It should be noted that the power for the plenary council to step in under regulation 5 can only be exercised on a case by case basis, where the prescribed circumstances apply and only in respect of the functions specified in the Schedule to the regulations.

Right of ‘call-in’ of delegated functions by plenary council in particular circumstances

14. Regulation 7 provides, pursuant to Section 131A(5)(b)(iv) of the 2001 Act (as amended by the 2014 Act) that, where a function of the local authority (in Part 3 of Schedule 14A of the 2001 Act, as amended by the 2014 Act) has been delegated by it to the municipal district members in accordance with section 131A(2) of the 2001 Act (as amended by the 2014 Act), the plenary council can decide, in a particular instance, to perform that function in respect of a municipal district in place of the municipal district members.

15. The circumstances in which this power to ‘call-in’ the performance of a function are similar to those under regulation 5, as outlined above. Where the local authority considers that the performance of a function in respect of a municipal district in the particular instance in question could have significant implications for the local authority as whole or for a municipal district other than the district in respect of which the function is to be performed, it can call in the function for decision by the plenary council in that instance.

16. Circumstances in which this ‘call-in’ procedure might be invoked would depend on what particular functions are delegated by the plenary council to the municipal district members. As in the case of regulation 8, this right must be exercised on a case by case basis and does not involve termination of a delegation, which is subject to separate provisions in the 2001 Act (as amended by the 2014 Act) including a requirement to consult the municipal district members.

17. Some specific functions of the local authority are already precluded from delegation by section 131A of the 2001 Act (as amended by the 2014 Act), for example, adoption of the local authority budget, making of a development plan and determining an ARV. Further specific functions are not being excluded from delegation at this point. However, regulation 6 contains general

provisions in that regard to the effect that any function which is to be performed in respect of the local authority as a whole or its administrative area, or the performance of which could have significant implications for the local authority or its administrative area may not be delegated to the municipal district members. Some further rules in relation to delegation are contained in the statutory guidelines. Experience in relation to delegation of functions to municipal district members will be kept under review.

Resolution of differences or disagreement regarding responsibility for functions in Part 2

18. In the event of any doubt as to the level at which a function should be performed in a particular instance or circumstances, the CPG should be consulted. In addition, regulation 8 sets out, in accordance with section 131A(5)(b)(v) of the 2001 Act (as amended by the 2014 Act), a specific process to assist in determining whether a particular function should be performed by the municipal district members or the plenary council in a particular instance and for dealing with possible differences or disagreements in that regard.
19. The chief executive will be required to advise the municipal district members in any case where, following consultation with the Cathaoirleach or Leas-Chathaoirleach, he or she is of the view that a particular function which the members propose to perform should, by virtue of the provisions of the 2001 Act (as amended by the 2014 Act), the regulations, and ministerial guidelines, be performed instead by the plenary council. It is envisaged that this function would be delegated by the chief executive to a director of service or meetings administrator.
20. It will then be a matter for the municipal district members to decide not to proceed or, alternatively, to decide (by resolution) to refer the matter for consideration by the CPG. The municipal district members are precluded from proceeding with performance of the function where they have been advised by the chief executive that it is not appropriate, unless the CPG indicates that it is, in its view, in order for them to perform the function.

Consistency and avoidance of duplication in the performance of reserved functions

21. Regulation 4 sets out requirements and procedures to ensure consistency and avoidance of duplication in the performance of reserved functions, between municipal district members and the plenary council and also avoidance of duplication between different municipal districts. This is provided for in sections 131A(5)(b)(i) and 131A(5)(b)(ii) of the 2001 Act (as amended by the 2014 Act).
22. There is a basic requirement on the municipal district members in regulation 4(1) to ensure consistency and avoidance of duplication. The regulations provide a process to support compliance with this requirement, similar to that at regulation 8 in relation to determination of level of responsibility. Where the chief executive, following consultation with the Cathaoirleach or Leas-Chathaoirleach, forms a view that the performance of a function in a particular instance would give rise to inconsistency with any policy, strategy, programme

or plan of the local authority, or to unnecessary duplication, he or she must advise the municipal district members of this.

23. The municipal district members can decide not to proceed further with the proposal or decide (by resolution) to refer the matter for consideration by the CPG. The municipal district members are precluded from proceeding with performance of the function where they have been advised by the manager under this provision, unless the CPG indicates that, in its view, the proposed performance does not involve inconsistency or duplication.

General provisions regarding powers of municipal district members

24. Regulation 4 also confirms that the municipal district members have full competence in performing the functions assigned to them and unlike, for example, area committees, their decisions in these matters are not subject to approval or ratification by the plenary council. This applies equally to any functions delegated to the municipal district members by the plenary council. The municipal district members will, in effect, act on behalf of the local authority in performing the functions assigned to them, subject to compliance with the Act, regulations and statutory guidelines.
25. The latter requirement is stated expressly in regulation 9 which also confirms that any resolution for the performance of a function which is not in compliance with this requirement will be invalid. An explicit prohibition on the performance of a function at either district or county level which, in accordance with the Act, regulations or guidelines, should be performed at the other level, is contained in regulation 10.

**Performance of Reserved Functions in Respect of
Municipal District Members
Ministerial Guidelines**

The Minister for the Environment, Community and Local Government in accordance with section 131A(6) of the Local Government Act 2001 (as inserted by section 21(3) of the Local Government Reform Act 2014) hereby issues the following guidelines:

1. Reserved functions not performed in accordance with the Local Government 2001 Act (as amended by the Local Government Reform Act 2014), S.I. 231 of 2014 and these guidelines shall be invalid irrespective of whether or not the chief executive has provided advice in that regard to the members.
2. The appointment of members to public authorities (in accordance with paragraph 2 of Schedule 14 to the Local Government Act 2001) or to local authority committees having delegated power (Schedule 14A, Part 3, Reference No. 8 of the 2001 Act, as amended by the 2014 Act) is a function of the plenary council, subject to provision for delegation to the municipal district members. Where the municipal district members have established advisory committees in respect of the district (Schedule 14A, Part 1, Reference No. 5), it would be a matter for members to make appointments to them and also to any local groups or bodies with which they have engagement and whose role is confined to the district or locations within the district.
3. Where a function is delegated by the plenary county or city and county council to municipal district level, the delegation should be in respect of all municipal districts, subject, in the case of Limerick City and County Council and Waterford City and County Council, to the possible consideration that certain functions might be delegated only to a metropolitan district.
4. Functions should not be delegated for a particular instance only or a limited period of time.
5. The Department must be notified as soon as possible of any function which has been delegated to the municipal district members.
6. In considering, in the context of regulations 4 and 8 of S.I. 231 of 2014, whether the performance of a function by the municipal district members is appropriate, regard should be had to the manner in which it is proposed to perform the function in a particular instance, where this is known.
7. Where a function in relation to regulation 4 or regulation 8 of S.I. 231 of 2014 is to be delegated by the chief executive to a director of service or meetings administrator, it may be delegated to different persons in respect of different municipal districts.
8. Where the municipal district members consider that a particular function should be performed by the plenary council rather than the municipal district members, they may seek to have responsibility in that regard transferred in accordance with section 131A(4) of the 2001 Act (as amended by the 2014

Act). The views of the plenary council should be ascertained and the Department informed before proceeding to adopt a resolution for that purpose. Transfer to the plenary council will not be approved in respect of a specific instance or for a limited time period. In the case of a function that has been delegated by the plenary council to municipal district level, transfer should apply in respect of all municipal districts, consistent with the approach to delegation at paragraph 3.

9. The performance of any function in respect of a municipal district shall include the performance of such function in respect of any place within such district.
10. In relation to performance of the function at Reference No. 27, Schedule 14A, Part 1 of the 2001 Act (as amended by the 2014 Act) - "*Making of a resolution to determine the manner in which fees in respect of parking shall be disposed of*"- the municipal district members must have regard to the overall local authority budget strategy and the needs of, and the resources available or likely to be available to the local authority to discharge its statutory functions.
11. In the event that the performance of a particular function or application of a measure involves a combination of some elements which are to apply uniformly to all districts in a county or a city and county on a local authority-wide basis, and others which need to allow for possible variations as between districts, the latter should be decided by the municipal district members, with generic type matters being decided by the plenary council and reflected accordingly in the performance of the function, adoption of relevant instrument, etc., by the municipal district members. This might arise, for example, in relation to certain plans or bye-laws or other instruments or documents which could contain general requirements or provisions to apply on a county wide basis, and also details such as levels of charge or time periods, which it would be appropriate to decide on a district basis.
12. In assessing whether the area of a town contains a population equal to or greater than 20,000 for the purpose of allowing municipal district members to decide, by resolution, to use the title 'Mayor' or 'Deputy Mayor' (in accordance with the provisions of section 32(1A)(c) of the 2001 Act (as amended by section 37 of the Local Government Reform 2014 Act)), the population of the environs of the town for the purpose of the census of population shall be used, including where that population lies outside the county.

The foregoing guidelines are issued specifically for the purpose of the performance of functions in accordance with section 131A of the 2001 Act (as amended by the 2014 Act) and apply without prejudice to any guidance, requirements, etc. issued in respect of the substantive matters involved in particular functional areas or specific policies, programmes or statutory roles, including separate guidance in relation to particular aspects of the Local Government Reform Act 2014. As a new departure in local government, the operation of the municipal district system will need to be reviewed closely, especially in its initial period. Local authorities should bring any issue arising in that regard to the attention of the Department. Should any adjustment to S.I. 231 of 2014 or guidelines appear necessary in the light of experience, this can be considered.

29 May 2014