



Circular Fin 05/2014

29 May 2014

Re: Local Government (Financial and Audit Procedures) Regulations 2014 and associated budget related matters

I am directed by the Minister for Environment, Community and Local Government to refer to the Local Government (Financial and Audit Procedures) Regulations (S.I. 226 of 2014), which come into effect from 1 June 2014. Details in relation to these and related matters follow.

Summary

The Local Government (Financial and Audit Procedures) Regulations 2014 revoke in whole the previous Local Government (Financial Procedures and Audit) Regulations 2002 (SI 508 of 2002) as amended by Local Government (Financial Procedures and Audit) (Amendment) Regulations 2014 (SI 8 of 2014). The new Regulations restate many provisions of the 2002 Regulations and take account of relevant provisions in the Local Government Act 2001 and Local Government Reform Act 2014. The Regulations are set out in five Parts:

Part 1 - General Interpretations

This contains relevant definitions that are not already provided in the Principal Acts.

Part 2 - Budget - the main provisions relate to the budget process for those authorities with municipal districts, provide a definition of General Municipal Allocation, set out the timeline for submission of draft budgetary plan to members of Municipal Districts and the timeline for finalisation of draft budgetary plan.

These guidelines set out the process as provided for in the legislation, further information on the budget strategy and draft budgetary plan, as well as clarifying the application of the principal of fairness and equity as it will apply to the allocation of the General Municipal Allocation to municipal districts.

Part 3 - Audit – these provisions restate the previous requirements contained in the 2002 Regulations, with some amendments mainly to take account of the provisions of the Local Government Reform Act 2014. These guidelines highlight those changes.

Part 4 - Rates – these provisions are a restatement of the 2002 Regulations. The main changes that have been reflected are to remove references to ‘town councils’ and to update the provisions to reflect the new position of ‘Chief Executive’. It also includes a requirement

to make information available on-line as well as publishing in a newspaper, as is the norm currently.

Part 5 – Rates on Vacant Premises – this is a new Part and prescribes the process that should be followed by local authority members to give effect to the provision locally. While the levels of refund to be applied in local electoral areas will be a matter for the members, the Regulations will ensure a consistent approach, such as in relation to timeframes of decision-making across all local authorities.

Detailed Guidance – Parts 2, 3, 4 and 5 of Regulations

Part 2 – Budget and related guidance on the annual budgetary process

The Local Government Act 2001 Section 102, as amended by the Local Government Reform Act 2014, provides the legislative basis for the revised budget process which is to be implemented commencing with the 2015 budget.

Section 102 (4A) provides that the budget is developed in a phased process involving input from the Chief Executive, the municipal district members and the Corporate Policy Group. The adoption of the budget continues to be a reserved function of the local authority.

It should be noted that the umbrella term “municipal district” includes all other variations of this type of formation as set out in Part 3A section 22A of the Local Government Act 2001 (as inserted by the Local Government Reform Act 2014) e.g. metropolitan or borough districts. In the case where a local authority does not have municipal districts, the requirements relating to municipal districts will therefore not apply.

New EU requirements dictate that the main parameters of the national budget are to be published by 15 October each year, including local government aspects; the European Commission is to give an opinion on the draft budget by 30 November at the latest; and budgets must be formally adopted by 31 December. Therefore, it is a requirement that, from 2015, all aspects of the budgetary process at a local authority level must be completed by the end of year prior to the financial year to which the budget relates.

Local Government (Financial and Audit Procedures) Regulations 2014 repeal the Local Government (Financial Procedures and Audit) Regulations 2002 and 2014. The main provisions of the new regulations, as they relate to the budget process, are to provide a definition of General Municipal Allocation, to set out the timeline for submission of the draft budgetary plan to members of municipal districts and to set out the timeline for finalisation of draft budgetary plan.

The Local Government Reform Act 2014 makes a number of changes to the requirements in the Local Government Act 2001 Section 102, which provides for the preparation of the draft local authority budget.

The budget process is set out below and summarised in Appendix 1.

1. Agree budget strategy
2. Develop draft budgetary plans
3. Draft local authority budget
4. Schedule of municipal district works

1. Agree budget strategy

1.1 Consultation with the Corporate Policy Group (CPG)

In accordance with the general guidance in the Strategic Policy Committee (SPC) and CPG Guidelines, the CPG will need to be involved from the preliminary phases of preparation of the budget, and should assist in the setting of overall parameters, identification of issues to be addressed and approaches to be taken.

The Local Government Act 2001 (as amended by the Local Government Reform Act 2014) (subsection 133(1)) made provision for early presentation of proposals to the local authority connected with the formulation, development, monitoring and review of policy, and this includes the annual budget. The Chief Executive is required to discuss, in outline form, or on the basis of very preliminary papers, the development of the budget with the CPG.

The consultation with the CPG should focus on the overall financial position of the local authority and, in a pre-budget context, should discuss a number of key items of budget policy and strategy including the financial consequences of any variation in basic rate of Local Property Tax (LPT), the amount of General Municipal Allocation to be provided to municipal districts and the impacts associated with decisions to be taken on rates vacancy refunds.

1.2 Consider financial impact of LPT variation

Under section 20 of the Finance (Local Property Tax) Act 2012, a local authority may as a reserved function resolve to vary the basic rate of the Local Property Tax within its functional area by a maximum of +/- 15%. This power will be available to local authorities effective from 2015, as the relevant sections of the Act will come into operation on 1 July 2014. The Revenue Commissioners have separately written to all local authorities and required that they must be notified no later than 30 September of the details of any decision made to vary the basic rate of LPT by a local adjustment factor.

Section 20 of the 2012 Act requires that, in varying the rate, a local authority must take account of its financial position, and have regard to:

- the local authority's estimation of the income it will receive and the expenditure it will incur in the period for which the varied rate is to have effect;

- the financial position of the local authority, including the amounts standing as its accumulated assets and liabilities not less than one month before the date on which it is proposed to pass the resolution; and
- the local authority's estimation of the financial effect of the varied rate on the economy of its functional area, including on those persons who will be liable to pay local property tax.

Section 20 also provides that the Minister for the Environment, Community and Local Government may make regulations, including in respect of public consultation requirements prior to the variation of the rate of the Tax. The Minister will make such regulations in advance of the coming into operation of section 20 of the 2012 Act.

1.3 Confirm decision on LPT

The decision on the variation of the basic rate of LPT is a reserved function of the local authority, and will need to be considered by a council meeting before the end of September, with both the Revenue Commissioners and the Minister for the Environment, Community and Local Government being formally notified by 30 September each year of any resolutions passed.

1.4 Agree overall General Municipal Allocation (GMA)

The definition of GMA is provided in regulations, and is the name given to the discretionary funding which is made available to municipal district members for allocation in the draft budgetary plan. The amount an authority can provide by way of a GMA is dependent on the total level of income available to it, and the non-discretionary costs that must be met as a first call on that income, including at municipal district level.

The Chief Executive must consider the resource needs of the local authority in determining the overall level of the General Municipal Allocation proposed by the local authority; the budget strategy discussion with the CPG, the other decisions made on LPT, and the estimate of the non-discretionary costs of the authority must be taken into account.

1.5 Information to be provided to the Department of the Environment, Community and Local Government

To meet the reporting requirements of the EU, all local authorities must submit a report to the Department by 30 September. This report, which should be prepared in the format provided in Appendix 2, sets out the preliminary estimates of income and expenditure, both current and capital, for the forthcoming year.

2. Develop draft budgetary plans

Section 102 (4A)(a) of the Local Government Act 2001 (as amended by the Local Government Reform Act 2014) provides that "In the case of a county council or a city and county council, the Chief Executive shall consult the municipal district members for each municipal district in the local authority's functional area in the preparation of a draft local authority budget and, for that purpose, a draft budgetary plan for the municipal district shall be prepared under the direction of the Chief Executive and submitted for consideration by

the municipal district members for each municipal district in the manner and in the format that may be prescribed by regulations made by the Minister.”

The draft budgetary plan will set out how any General Municipal Allocation allocated to the Municipal District will be spent. This only refers to the discretionary funding that is allocated to the Municipal district, with discussions on the main, strategic, non-discretionary expenditure of the local authority forming part of the main local authority budget preparation. A template for the draft budgetary plan is set out in Appendix 3, and may be customised as appropriate.

2.1 Allocate GMA between municipal districts

Section 102 (4A)(b) provides that “in determining the resources to be made available to the municipal district regard should be given to (i) the needs of, and the resources available or likely to be available to the local authority, and (ii) resource needs of each municipal district including, where appropriate the population of each municipal district.”

The total amount of GMA provided must be allocated by the Chief Executive to each municipal district in a manner that is fair and equitable. In doing so, the Chief Executive must consider the resource needs; where appropriate, the population; and should make an allocation that is transparent, just, not arbitrary, and provides a minimum level of discretionary allocation to all districts.

2.2 Municipal districts consideration of draft budgetary plans

The purpose of a draft budgetary plan is to provide each municipal district with an opportunity to allocate its portion of the General Municipal Allocation according to its priorities.

This does not replace the main, strategic, non-discretionary expenditure of the local authority, the spending of which will be prioritised by the members as part of the development of a schedule of municipal district works after the budget has been adopted.

Appendix 3 provides examples of the types of expenditure that could be prioritised by municipal district members. The inclusion of grant funded expenditure facilitates the consideration by municipal members of whether further funds might be provided in these areas (notwithstanding any expenditure contemplated by the local authority and funded by grant / local authority matched funding).

The regulations provide a period (to be directed by the Minister) during which the members may consider the draft budgetary plan. The members of the municipal district must receive a copy of the draft budgetary plan and notice of the meeting of municipal district members 7 days prior to that meeting. The meeting of municipal district members to consider the draft budgetary plan must conclude no later than 21 days prior to the local authority budget meeting. There is no provision for the adjournment of this meeting.

2.3 Municipal districts adopt draft budgetary plans

Section 102 (4A) (c) and (d) provide that it is a reserved function of the members of a municipal district to adopt the draft budgetary plan with or without amendment. In this

context, the members of the municipal district may consider changes to the local charges applied in their district, with an increase or decrease in those charges impacting on the overall level of funding that may be available for the draft budgetary plan (GMA).

3. Draft local authority budget

The format of the statutory budget tables is contained in the Accounting Code of Practice.

3.1 Draft budgetary plans to be incorporated into draft local authority budget

Section 102 (4A) (e) provides that the Chief Executive “shall take account of any budgetary plan adopted ... in preparing the draft local authority budget (in accordance with subsection (2))”.

If the members of any municipal district do not adopt a draft budgetary plan, the Chief Executive may take account of the draft budgetary plan as presented to members of that municipal district without amendment.

The expenditure allocated by the municipal districts in the draft budgetary plan should be included in the draft local authority budget within the relevant service division.

3.2 Budget meeting

Section 103 (2)(b) provides that the period for the holding of a budget meeting shall be directed by the Minister. In order to finalise all budgets by 31 December, it will be necessary to hold budget meetings in November; the specific dates will be prescribed by the Minister each year.

Section 103 (6) provides that the budget meeting may be adjourned “but any such adjournment shall be to a day that is within the period of 14 days beginning on the day on which the local authority budget meeting first begins.”

Section 216 subsections (c) and (d) provide that the Minister may by order remove from office the members of a local authority if and whenever -

- a local authority fails to comply with a requirement made by notification under subsection (1) of section 10A, within 14 days after the date of notification, or
- a local authority in the circumstances set out in subsection (6) of section 10A, adopts a revised estimate of expenses which is, in accordance with that section, insufficient.

4. Schedule of municipal district works and service delivery plans

Section 103A (1) provides that, following the adoption of the budget, a schedule of proposed works of maintenance and repair to be carried out during the financial year in each municipal district shall be prepared under the direction of the Chief Executive, having regard to the availability of resources.

The schedule of municipal district works shall be considered by the municipal district members concerned and be adopted by resolution, with or without amendment by it. In making an amendment the municipal district members shall have due regard to the local authority budget adopted in accordance with section 103(9).

Further advice will issue in relation to the preparation of service delivery plans.

Part 3 - Audit provisions

The new Regulations restate a number of audit provisions that were included in Part 3 of the 2002 Regulations (Regulations 13 to 20). The amendments that have been made reflect the repeal of the various provisions relating to the auditor's authority to charge and surcharge in accordance with Part 2 of Schedule 1 of the 2014 Act and modernise the formal requirements for commencing the annual audit. Separate Regulations regarding the operation of audit committees have been drawn up in accordance with section 59 of the Local Government Reform Act 2014.

Local authorities' attention is drawn to the following paragraphs:

1. Regulation 13 provides the interpretation of the meaning of local government organisation for the purposes of this part of the regulations and includes local authorities, regional assemblies and all other bodies audited by the Local Government Audit Service.
2. Regulation 14 provides the procedures to be followed by local authority Chief Executives and Directors of assemblies and auditors in regard to the notice of a yearly audit. Related forms to be used by local authorities or other bodies in respect of the publication of the notice of audit are included in the Schedule. A new arrangement has been included to formalise what is already standard practice, which allows the auditor to commence his or her audit related work before the formal notice of audit has been provided. The auditor must notify the Chief Executive or Director or Manager at least 7 days before they commence this work. This has been provided to ensure that the audit process, where practical and appropriate, can be conducted in the most efficient way possible without undermining the statutory arrangements for completion and submission of the annual financial statement and public consultation.
3. Regulation 15 provides that the local authority shall, during office hours, make available for inspection by members of the public the annual financial statement, records and other documents relating to the accounts to be audited, seven clear days before the day appointed for the commencement of the yearly audit of its accounts. Regulation (15)(2) requires the local authority to afford every reasonable facility and assistance to the person who has made the request.

4. Regulation 17 provides that objections at audit may be made by an aggrieved person or by a person on behalf of that person. The objection(s) shall be made in writing setting out the particulars and grounds to the auditor within 10 days of the commencement of the audit. Some changes have been made to reflect the repeal of the auditor's power to charge and surcharge. An auditor must consider the objection and if he or she finds that the matter is not material to the audit, or the matters raised in the objection are not concerned with the accounts of the local authority subject to audit, they may refer the matter to the Chief Executive (paragraph (2)). Where the auditor has referred the objection to the Chief Executive, the Chief Executive is required to review the matter and respond to the person who made the objection, setting out his or her findings, within 14 days of receipt of the objection from the auditor, or, if that review has not been completed, they are required to provide an update on progress and an indication of the date by which the review will be completed (paragraph 3). Where the auditor has considered the objection to be of material relevance to the audit, the auditor is required to refer to the matter in their report and provide a copy of the report to the person who made the objection with 14 days of submitting the report to the local authority.
5. Regulations 18, 19, and 20 restate paragraphs 27, 28 and 29 of the 2002 Regulations, with an additional new requirement in Regulation 20 to publish the annual financial statement and auditor's report on the local authority's website.

Part 4 - Rates provisions

The new Regulations re-state a number of commercial rates related provisions that were included in the 2002 Regulations. The amendments that have been made take account of the dissolution of town councils and the change to the role of Manager/Chief Executive. They also require publication of notices on the local authority's website as well as in newspapers. Provision has also been made for in the inclusion of the Base Year Adjustment (BYA) (as provided by section 29 of the Local Government Reform Act 2014) where relevant on rates bills and within the rates book.

Regulations 24, 25, and 27 re-state Regulations 37, 39 and 41 of the 2002 Regulations.

Part 5 - Rates on vacant premises

The Local Government Reform Act 2014 provides for a change to rating law in relation to the refund of rates on vacant properties; it provides discretion to the elected members of individual local authorities to vary the level of rates refunds that apply in individual local electoral areas within the authority's overall administrative area. The amendment does not make any change to the eligibility or otherwise of refunds as currently provided for in

relevant legislation but does amend that legislation to provide for the new reserved function of a local authority.

The new reserved function will be commenced with effect from 1 June 2014. Regulation 30 provides that the decision to alter the rate of refund should be taken at the annual budget meeting and that the rate of refund decided in respect of the relevant local electoral area shall apply to eligible persons for the year to which the budget relates, only. The absence of a decision to vary the refund means that the existing legislative provisions regarding the rate of refund applies (i.e. s14 of Local Government Act 1946; s71 of the Local Government (Dublin) Act 1930; or s20 of Cork City Management Act 1941). Therefore, if a local authority wishes to have an altered rate of refund in place for a number of consecutive years, it will be necessary for the Council to take such a decision at each relevant budget meeting.

Any queries in relation to this Circular should be made to Emma Reeves at 053 911 7417 or Barry Cooke at 053 911 7424.

Yours sincerely,



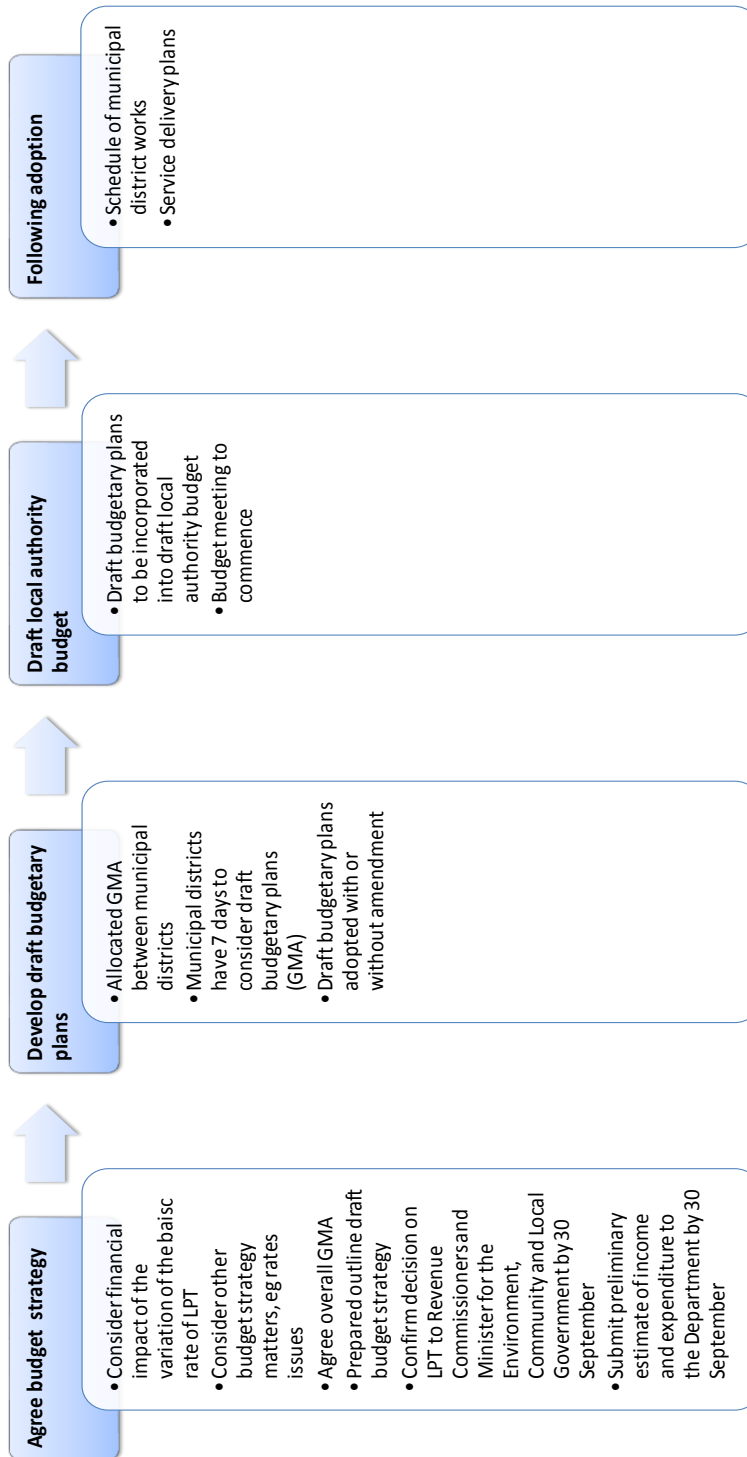
Fiona Quinn

Principal Officer

Local Government Finance

To: County and City Managers and CC Heads of Finance

Appendix 1 – Overview of the Budget Process



**Appendix 2 – Report to be submitted to the Department of the Environment,
Community and Local Government by 30 September**

Preliminary estimate of capital and current income and expenditure for the forthcoming financial year	
	€
Overall balance (1 - 2)	
1. Total Revenues / inflows	
Rates / NPPR (net of bad debt provision for rates)	
Property income	
Other receipts	
Inflows from central government ¹	
Inflows from operations in financial instruments ²	
2. Total expenditure / outflows	
Compensation of employees ³	
Interest paid to non government ⁴	
Social benefits (transfer payments to households)	
Capital transfers (capital grants paid)	
Other expenditure (net of bad debt provision for rates)	
Outflows to central government ⁵	
Outflows from operations in financial instruments ⁶	

Notes

- 1 Grants and subsidies
- 2 Loans
- 3 Including pensions
- 4 Interest paid other than to the HFA, OPW or NTMA
- 5 Interest and principal paid to the HFA, OPW and NTMA
- 6 Principal repaid, other than to the HFA, OPW or NTMA

Appendix 3 – Draft budgetary plan

MUNICIPAL DISTRICT DRAFT BUDGETARY PLAN			Current year information	
			€	€
			Municipal district	
General Municipal Allocation				
Increase/decrease in other charges				
Total (A)			0	0
To finance Gross Revenue Expenditure			Municipal district	Local authority total
Details by Service Division			proposed expenditure	expenditure
<i>Housing and Building</i>			0	0
	A0101	Maintenance of LA Housing Units		
	A0102	Maintenance of Traveller Accommodation Units		
	A0104	Estate Management		
	A0401	Housing Estate Management		
	A0402	Tenancy Management		
	A0403	Social and Community Housing Service		
	A0901	Housing Adaptation Grant Scheme		
	A0902	Loan charges DPG/ERG		
	A0903	Essential Repair Grants		
	A0904	Other Housing Grant Payments		
	A0905	Mobility Aids Housing Grants		
<i>Road Transport & Safety</i>			0	0
	B0301	Regional Roads Surface Dressing		
	B0302	Regional Road surface rest/road recon/overlay		
	B0303	Regional Road Winter Maintenance		
	B0304	Regional Road Bridge Maintenance		
	B0305	Regional Road General Maintenance Works		
	B0306	Regional Road General Improvement Works		
	B0401	Local Road Surface Dressing (RM)		
	B0402	Local Road surface rest/road recon/overlay		
	B0403	Local Road Winter Maintenance		
	B0404	Local Road Bridge Maintenance		
	B0405	Local Road General Maintenance Works		
	B0406	Local Road General Improvement Works		
	B0601	Traffic Management		
	B0602	Traffic Maintenance		
	B0603	Traffic Improvement Measures		
	B0701	Low cost remedial measures		
	B0702	Other engineering improvements		
	B0801	School wardens		
	B0802	Publicity and promotion road safety		
	B0901	Maintenance and management of car parks		
	B0902	Operation of street parking		
<i>Water Services</i>			0	0
	C0401	Operation and maintenance of public conveniences		

Cont'd

<i>Development Management</i>				0	0
	D0401	Industrial sites operation			
	D0402	Provision of industrial sites			
	D0403	Management of & contribs to other commercial facs			
	D0404	General development promotion work			
	D0501	Tourism promotion			
	D0502	Tourist facilities operations			
	D0601	General community & enterprise expenses			
	D0603	Social inclusion			
	D0701	Unfinished housing estates			
	D0901	Urban and village renewal			
	D0902	EU projects			
	D0903	Town twinning			
	D0904	European Office			
	D0905	Economic development & promotion			
	D1101	Heritage Services			
	D1102	Conservation services			
	D1103	Conservation grants			
<i>Environmental services</i>				0	0
	E0501	Litter warden services			
	E0502	Litter control initiatives			
	E0503	Environmental awareness services			
	E0601	Operation of street cleaning services			
	E0602	Provision and improvement of litter bins			
	E0901	Maintenance of burial grounds			
	E0902	Provision of burial grounds			
<i>Recreation and Amenity</i>				0	0
	F0101	Leisure facilities operations			
	F0102	Provision/improvement of leisure facilities			
	F0103	Contribution to external bodies leisure facilities			
	F0301	Parks, pitches and open spaces			
	F0302	Playgrounds			
	F0303	Beaches			
	F0401	Community grants - sports & recreational			
	F0402	Operation of sports hall/stadium			
	F0403	Community facilities			
	F0404	Recreational development			
	F0502	Contributions to other bodies arts programmes			
	F0503	Museums operations			
	F0504	Heritage /interpretative facilities operations			
	F0505	Festivals and concerts			
<i>Agriculture, Education, Health and Welfare</i>				0	0
	G0507	School meals			
<i>Miscellaneous Services</i>				0	0
	H0701	Operation of markets			
	H0702	Casual trading areas			
Relevant Gross Expenditure (B = A)				0	0