



INDUCTION TRAINING FOR ELECTED MEMBERS JULY 2019



Presented by

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**Member of Carlow County
Council**

Induction Training for Elected Members - July 2019



- 1. Role of the Elected Member**
- 2. Reserved Functions**
- 3. Ethics & Governance**
- 4. Code of Conduct**



The role of the Elected Member



- ❖ The public face of the local authority especially the Mayor or Chair.
- ❖ The policy-making arm of the local authority.
- ❖ Represent the views of their communities.

1. Role of the Elected Member – General Overview

❖ The Elected Member's role and responsibilities include:-

- Developing the policy of the local authority
- Oversight of the activities of the local authority
- Being a representative of the local community
- Community leadership and engagement
- Membership of other Boards and Bodies

I. The Statutory & Policy Role of the Elected Member

The performance of local authority functions are shared between the Elected Members and the Chief Executive.

The Local Government Act 2014 divides decision making into two sections.

Reserved functions, mainly relating to issues of policy carried out by the Elected Members

and

Executive functions which are decided by the Chief Executive.

The 2014 Local Government Act sets out 142 reserved functions and any function not mentioned in the 2014 Act as a reserved function is an executive function.

Don't be under any illusion that the Executive don't try and shape the Elected Members thinking about all reserved functions. The Elected Members often have to draw on the advice of the Council's professional staff such as planners, engineers and accountants. It is the duty of the Chief Executive to advise and assist Elected Members when exercising reserved functions.

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, the Corporate Policy Group and the Elected Council as a whole.

Most of the major decisions of the Local Authority are reserved functions as the exclusive prerogative of the Elected Members including oversight over the financial affairs of the Authority.

In addition to the Reserved Functions the Elected Members have a role in overseeing and directing the activities of the Local Authority in general and the 2014 Reform Act introduced a structured reporting relationship between the Chief Executive and the Elected Members e.g. the inclusion of a monthly report from the Chief Executive on the activities of the Local Authority.

Elected Members are directly elected by the people and therefore have a mandate from the people in relation to the communities that they represent. They can initiate action to promote the community interest and are ideally placed to provide civic leadership.

RESERVED FUNCTIONS

- Performed by the Elected Members;
- Defined by law;
- Specified across a range of enactments;
- Comprise mainly decisions on matters of policy and finance;
- Minister can add to the list of reserved functions.

Exercise of the policy remit is a fundamental role of the Elected Members AND brings with it a responsibility for preparatory work and proper consideration.

EXECUTIVE FUNCTIONS

- Performed by the Chief Executive or delegated staff;
- Involve the day operation of the Local Authority;
- Any function that is not a Reserved Function is an Executive Function;
- Chief Executive has to operate within the policy framework laid down by Elected Members;
- Duty of Chief Executive advise and assist Elected Members;
- Chief Executive must carry out all lawful directions given by the Elected Members in relation to Reserved Functions
- Performed by means of Chief Executive's written order – signed and dated.

II. 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:-

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

- c) Inspect the Chief Executive's Orders
- d) 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.
- e) 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.
- f) Require that a particular act, matter or thing be done by the Chief Executive (Section 140 of the Local Government Act, 2001)

- g) Where legal advice has been obtained the Local Authority on the exercising of a reserved function, the Elected Members may also request a second legal opinion.
- h) Ultimately, the Local Authority has the power to vote to suspend and (subject to the approval of the Minister) remove a Chief Executive – such a vote must be supported by at least three-quarters of the members of the Local Authority (Section 146).

III. 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.

IV. Community Leadership and Engagement

Involvement in and giving leadership to local clubs, societies, groups etc. is often a key factor in the electability of a candidate. Studies suggest that “localness” and the ability of Elected Members to take care of “their” municipal district, town or village is a key influencer at elections when voters decide how to vote (Buckley and Hofman, 2015).

Elected Members regularly act as intermediaries between constituents and public services e.g. filling forms, advising on options, making phone calls etc.

This latter role often overshadows the policy making role.

V. 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.

Appointment to boards and other bodies may also include local boards/companies and committees including boards to local community centres, arts centres, public swimming pools etc.

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.



Reserved Functions

The Elected Members derive their powers by exercising 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.

The various reserved functions are set out in Schedule 3 of the Local Government Reform Act, 2014. (A list of Reserved Functions are set out at appendix 1 of the AILG's Elected Member Guidance Manual)

Reserved functions primarily relate to issues of policy, e.g.

- ❖ Adopting the annual budget (including setting a commercial rate for the coming year)
- ❖ Variation of the Local Property Tax rate for the coming year (+/-15%)
- ❖ Adopting a Corporate Development Plan (2019-2024)
- ❖ Making, amending or revoking a local bye-laws e.g. parking, casual trading, recreational parks, control of begging, litter, speed limits etc.
- ❖ Creation of a County Development Plan, Local Area Plans including the zoning and de-zoning of development land (subject to limits of the Regional Development Plan, National Policy etc.
- ❖ The adoption of an allocation scheme or scheme of letting priorities for social housing
- ❖ Borrowing money including overdrafts
- ❖ Deciding to confer a civic honour such as the “freedom” of an area on person

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

II. Performed by Municipal/Metropolitan/Borough District Members or by the Plenary Council

III. Be performed by the Plenary Council only.

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>**



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.**
- ❑ In the first week of January every year the Ethics Registrar must send to each member and relevant employee a notice/ declaration informing them of the requirement to furnish an annual declaration.**

SECTION.171, 2001 Act - An annual declaration of interests must be made in respect of the following:

- a) Profession, Occupation etc.
- b) Other profession, Occupation etc.
- c) Any activities relating to dealing in, or developing land
- d) Land (ownership, interest) (includes all property e.g. buildings, dwellings etc.)
- e) Company Business of dealing in land etc.
- f) Shares – value in excess of €12,697.38
- g) Directorships

Schedule – S.I. No. 29 of 2015

Part 1

Form A – Local Authority Members

Carlow County Council

Local Government Act 2001 - Part 15 - Annual Declaration

Name	
Date of election or co-option	
Appropriate period [◇]	

1. I hereby furnish the following particulars of my declarable interests as required by section 171 of the Local Government Act 2001 and which I have set out at paragraphs 1 to 10 of this form. None of the grounds for disqualification referred to in section 13, or 182 of the Local Government Act 2001 or under section 20 of the Local Elections (Disclosure of Donations and Expenditure) Act 1999 apply to me,
2. I hereby declare that I have read the Code of Conduct for Councillors and further declare that I understand its meaning, and
3. I hereby undertake to have regard to and be guided by the Code of Conduct for Councillors in the exercise of my functions. (The Code of Conduct for Councillors was issued by the Minister under section 169 of the Local Government Act 2001).

Signed: _____ Dated: 2015

h) Gifts, Property and Services in excess of €634.87

i) Local Authority Contracts in excess of €6,348.69

j) Political or Public Affairs, Lobbying etc.

k) 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

The screenshot shows the Kilkenny County Council Online website. The top navigation bar includes links for Kilkenny.ie, County Council, Kilkenny Library, Visit Kilkenny, and Invest Kilkenny. Below this is the Kilkenny County Council Online logo. The main navigation bar has links for Home, Services, Your Council, Publications, A to Z, and Contact Us. The breadcrumb trail shows: Home / Your Council / Annual Declarations Local Authority Members. On the left, there is a sidebar titled 'In this Section' with a list of links: Online Services, The Protected Disclosures Act 2014, Data Protection, Disclosure of Donations & Expenditure, Annual Declarations Local Authority Members (highlighted), Economic and Community Monitor, Irish Languages Act, Communications, About the Council, Meetings, Voting and Elections, Jobs - Vacancies, and Corporate Plans and. The main content area is titled 'Annual Declarations Local Authority Members 2018' and lists the names of the council members: Andrew McGuinness, Breda Gardner, David Fitzgerald, David Kennedy, Eamon Aylward, Fidelis Doherty, Gerard Frisby, Joe Malone, John Brennan, Malcolm Noonan, Mary Hilda Cavanagh, Michael Doyle, Maurice Shortall, Melissa O'Neill, and Matt Doran. Each name is followed by a small red icon.

In this Section	
▼	Online Services
▼	The Protected Disclosures Act 2014
▼	Data Protection
▼	Disclosure of Donations & Expenditure
▶	Annual Declarations Local Authority Members
▼	Economic and Community Monitor
▼	Irish Languages Act
▼	Communications
▼	About the Council
▼	Meetings
▼	Voting and Elections
▼	Jobs - Vacancies
▼	Corporate Plans and

Annual Declarations Local Authority Members 2018

Andrew McGuinness	
Breda Gardner	
David Fitzgerald	
David Kennedy	
Eamon Aylward	
Fidelis Doherty	
Gerard Frisby	
Joe Malone	
John Brennan	
Malcolm Noonan	
Mary Hilda Cavanagh	
Michael Doyle	
Maurice Shortall	
Melissa O'Neill	
Matt Doran	

- ❑ 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.**

DISCLOSURE OF INTERESTS AT MEETINGS BY COUNCILLORS – S. 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.**
- I. 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.**

NB: A connected person means a brother, sister, parent, spouse or civil partner

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 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.

- The maximum amount that can be accepted as a donation in the same calendar year by a member of a local authority or by a local election candidate from the same source is €1,000.

Appendix 1 – Donation Statement Form

Local Elections (Disclosure of Donation and Expenditure) Act 1999
Donation Statement by Member of a Local Authority
(1 January to 31 December)

1. General Information	
Name of Member	
Address for correspondence	
Telephone number	
Email	
Fax number	
Political party, if any	
Local authority	
Local electoral area	

2. Donations

Did you receive any single donation exceeding €600 in value, or donations from the same person exceeding €600 in aggregate value, between 1 January and 31 December ?

Please tick (✓) one box only: Yes ☐ No ☐

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- Details of donations which exceed €600 must be disclosed in a statement made to the relevant local authority.
- A candidate or member of a local authority that receives a monetary donation that exceeds €100 must open and maintain a political donations account in a financial institution in the State.
- It is prohibited to accept a donation from an anonymous source which exceeds €100.
- Donations from persons resident outside of the State (other than Irish citizens) irrespective of their value are prohibited.
- Donations in cash which exceed €200 are also prohibited
- There are specific rules covering corporate donations which exceed €200 – the donor must be registered with the Standards in Public Office Commission and evidence that the donation was approved by the corporate body must be provided

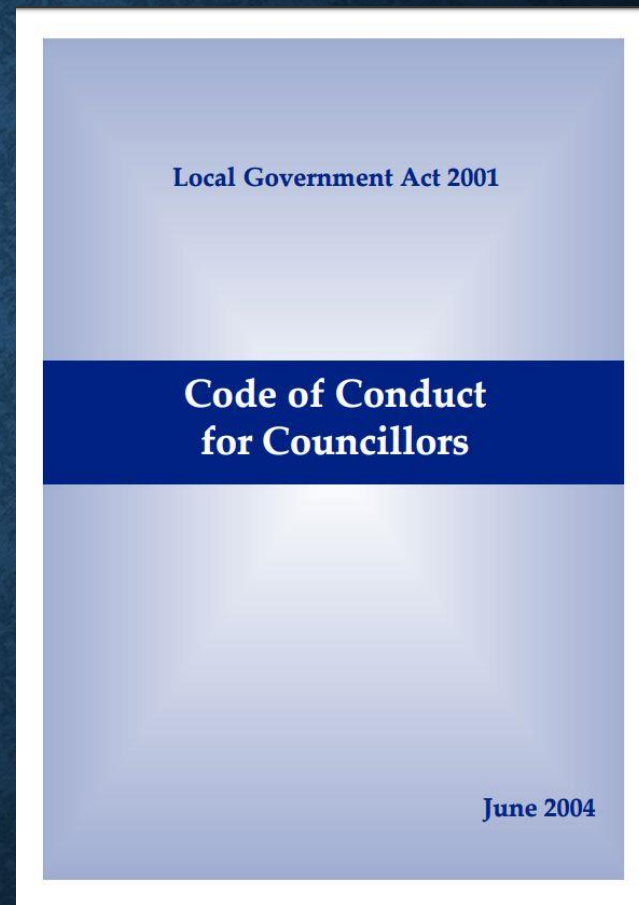


Code of Conduct

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

The code sets 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

Annual Declaration

Declare that you have read and understand the meaning of the Code of Conduct for Councillors.

Undertake to be guided by the Code of Conduct for Councillors.

Schedule – S.I. No. 29 of 2015

Part 1

Form A – Local Authority Members

Carlow County Council

Local Government Act 2001 - Part 15 - Annual Declaration

Name	
Date of election or co-option	
Appropriate period ^o	

1. I hereby furnish the following particulars of my declarable interests as required by section 171 of the Local Government Act 2001 and which I have set out at paragraphs 1 to 10 of this form. None of the grounds for disqualification referred to in section 13, or 182 of the Local Government Act 2001 or under section 20 of the Local Elections (Disclosure of Donations and Expenditure) Act 1999 apply to me,
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Signed: _____ Dated: _____

Whatever you
are, be a good
one.

Abraham Lincoln

Further Reading Suggestions

Local Government Act 2001

Code of Conduct
for Councillors

LOCAL GOVERNMENT IN THE REPUBLIC OF IRELAND

MARK CALLANAN

Governance Principles
& Governance Framework for the
Local Government Sector

ASSOCIATION
OF IRISH LOCAL
GOVERNMENT

LOCAL AUTHORITY
ELECTED MEMBERS
GUIDANCE MANUAL

AILG
Association of Irish Local Government
Aontas Rialtas Aitiúil na hÉireann



**THANK YOU
FOR YOUR
ATTENTION.
QUESTIONS?**

