

AILG

Association of Irish Local Government
Aontas Rialtas Áitiúil na hÉireann

AILG Elected Members' Information Leaflets Reserved functions - decision making powers of elected members

Leaflet **2**





Purpose of this leaflet

The purpose of this leaflet is to assist elected members in understanding the meaning of the term “reserved function” – a term which has a very specific meaning in relation to their roles as collective decision-makers for key local authority policies.

What are reserved functions?

Reserved functions can be described as decisions which are solely the prerogative of the elected members and which apply to key policy areas of local authority activity.

While councillors devote a great deal of their time on representational work, it is as members of their local authority sitting in council that they carry out their core function in the local government system. Through considering reserved function motions councillors establish far-reaching policies regarding local government service provision in their locality.

How do “reserved” functions differ from “executive” functions?

A defining characteristic of reserved functions is that they are individually specified in legislation as being reserved to the members of the elected council for the purpose of decision.

All other decisions in the day-to-day work of a local authority such as decisions on individual applications, the management of staff, the deployment of assets, the purchasing of materials and the maintenance of council property are known as “executive functions” and are the responsibility of the Chief Executive working within the policy framework set by the elected members as part of their reserved function role.

For example, the approval of a fire services plan is a reserved function of the elected members. It is the role of the Chief Executive to employ the staff and purchase the equipment necessary to translate the elected members’ policy into a service on the ground.

It is only the elected members who can make a “reserved function” decision and not the council Chief Executive. The CE may advise on a course of action to be taken but it is the elected members who decide. In this way they are setting the policy parameters of the local authority and the CE is obliged to work within the framework set by the elected members.

What is the legal basis for “reserved functions”?

Many reserved functions are defined in the Local Government Act 2001-2014 (as amended) – in particular those around the administration of the Council’s own meetings and procedure. Other reserved functions are specified in particular categories of law. For example, the making of the Development Plan which is provided for in the Planning Acts or the making of speed limit zones which is grounded in the Roads Acts.

Can reserved functions be passed by a simple vote of the council?

Most reserved functions are valid when passed by a simple majority once a quorum is present. However, in some specific cases, a qualified majority of the Council is required as specified in the relevant legislation. For instance, in the case of a Material Contravention of the Development Plan at least three-quarters of the full membership of the Council must vote in favour of the resolution.

Do reserved functions stand alone or are they part of a procedure?

Some reserved functions are part of a prescribed procedure where the vote of the elected members is part of a process. For example, there may be provision for public notice to be given together with a requirement to consider resulting submissions, before the matter is voted on by the members. An example would be the extinguishment of a right of way under the Roads Acts where prior notice has to be circulated to the members and published in the press and where the members may decide to hold a hearing for interested parties in advance of making their substantive decision.

Are reserved functions subject to any further approval?

In most cases the decision by the elected members is operative without any need for further approval. However, in some limited cases the decision made by the elected members requires the approval of the relevant Minister. For example, speed limits set by the elected members for a Regional Road require the approval of the Minister for Transport.

What level may reserved functions be decided at – local authority or Municipal District?

For local authorities which include Municipal Districts, the Local Government Act 2014 describes functions which:

- a) Must be taken at MD level only.
- b) Must be taken at plenary Council only
- c) May be taken at either level.

Generally speaking, reserved decisions to be taken at Municipal District level are specifically local such as the making of car-parking bye-laws or tree preservation orders.

On the other hand, reserved functions at county level are broader in nature relating to matters such as the county or city development plan or adopting the annual budget for the local authority.

There is a mechanism in the Local Government Act 2014 for the Council to devolve a function to the Municipal District for decision making.

There is also provision for the Municipal District to relinquish a decision-making competence to the Council but this requires the consent of the Minister.

Indicative schedule of reserved functions.

The following is an indicative listing of reserved functions which concentrates on the most important and on those most likely to be encountered by elected members. As there more than 180 reserved functions this list is necessarily not exhaustive.

The list of reserved functions is also dynamic. According as new legislation passes through the parliamentary process new reserved functions may be added.

Some reserved functions will be encountered by members on an annual basis such as amending the budgetary plan and adopting the draft annual budget.

Other reserved functions may feature to a greater or lesser extent depending on the profile of the local authority. For example, councillors in suburban local authorities are likely to be involved in the reserved function of making of bye-laws in relation to special speed limits and car-parking which would not be a feature for their counterparts in rural local authorities.

Some reserved functions may not occur in the course of a council term but are included here to show the significant role of the elected members in the democratic process – for example, the nomination of a candidate for the Presidency.

For a detailed list of reserved functions reference should be made to the Local Government Act 2014 Schedule 3.

Reserved Functions at Municipal District and County Level

Summary of main reserved functions to be performed at District, at District and County, and at County level - derived from Circular LG10 / 2014, Local Government (Performance of Reserved Functions in Respect of Municipal District Members) Regulations 2014.

Reserved functions to be performed at County Level

Reserved functions to be performed only by the County include:

- appointing a Cathaoirleach, making arrangements for meetings, sub-committees, etc.;
- making a local economic and community plan and implementation strategy;
- adopting the draft local authority budget;
- determining the annual rate on valuation to be levied;
- determining the rates refund applicable in respect of vacant property;
- deciding to borrow or lend money;
- delegating additional functions to municipal districts;
- approving the corporate plan;
- adopting the local authority service delivery plan;
- Requiring particular executive functions to be done;
- appointing (or removing) a chief executive;
- disposing of land;
- designating a landscape conservation area;
- adopting an annual report;
- nominating a candidate for presidential election;
- adopting a traveller accommodation plan;
- making a scheme for the allocation of houses;
- making a rent scheme;
- forming an anti-social behaviour strategy;
- making a homeless action plan;
- making speed limit bye-laws;
- adopting or varying a development plan;
- making a development contribution scheme;
- making a plan for fire and emergency operations;
- making a water quality management plan or river basin management plan;
- making horse control bye-laws;
- adopting a library development programme;
- adopting a polling scheme;
- varying local property tax;
- establishing a local community development committee; and
- establishing strategic policy committees.

Reserved functions which may be performed at County or at Municipal District Levels

Reserved functions to be performed by either the District or the County include:

- conferring civic honours;
- town twinning;
- determining policy of the local authority or district;
- directing the chief executive to provide a report or submit plans for particular works;
- approving of a material contravention to a development plan;
- making, amending or revoking a local area plan;
- making additions to or deletions from the record of protected structures;
- deciding in relation to a local authority own development proposal;
- making a public right of way; and
- Considering flood risk maps, plans, or a scheme prepared by the OPW.

Functions to be performed at Municipal District Level

Reserved functions to be performed by the municipal district include:

- appointing a Cathaoirleach/Mayor, making arrangements for meetings, subcommittees, etc.;
- considering a draft budget;
- establishing a community fund;
- scheduling proposed works and publishing an annual report relating to the district;
- delegating control or maintenance of dwellings to a designated body;
- making arrangements for a school warden service;
- taking a road in charge or abandoning a road;
- abandoning a public right of way;
- putting in place parking control, including parking bye-laws and taxi stands;
- expenditure of parking income;
- putting in place road traffic calming measures;
- making tree preservation orders;
- making casual trading bye-laws;
- putting in place a Litter management plan and litter bye-laws; and
- adopting a new place-name.

End Note

The foregoing list is not exhaustive and there are more reserved functions being added according as new legislation with a local government impact is passed through the legislative process.



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