

AILG ELECTED MEMBER INDUCTION TRAINING PROGRAMME

**Role of the Elected Members,
Leadership Role of the Elected
Council, and Reserved Functions**

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Topics Today

- ❖ Role of the Elected Member including their Statutory and Representative role
- ❖ Role of the Elected Member/Elected Council under the 2001 Local Government Act
- ❖ The Leadership role of the Councillor and the Elected Council
- ❖ Powers and Responsibilities of the Elected Council
- ❖ Powers and Reserved Functions of the Elected Member

Role of the Elected Member

- Role of the Elected Member - Statutory and Representative Role
- Role of the Member under the 2001 Local Government Act
- The Leadership role of the Councillor and the Elected Council



Number 37 of 2001

LOCAL GOVERNMENT ACT 2001
REVISED
Updated to 30 October 2014

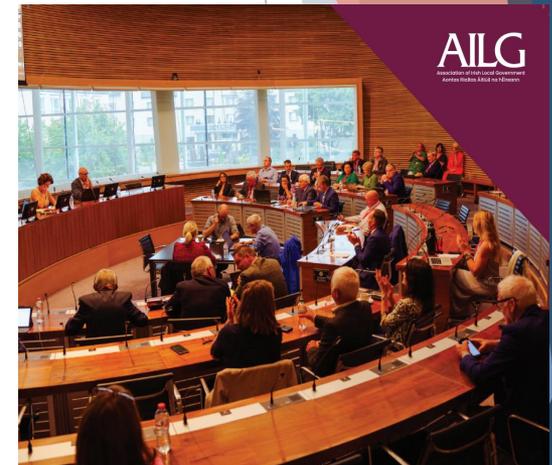
This Revised Act is an administrative consolidation of the *Local Government Act 2001*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (S.I. 1975/1) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *European Stability Mechanism (Amendment) Act 2014* (32/2014), enacted 30 October 2014, and all statutory instruments up to and including *Foot and Mouth Disease (Non-EU Countries) Regulations 2014* (S.I. No. 502 of 2014), made 30 October 2014, were considered in the preparation of this Revised Act.

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Independent Review of the Role and Remuneration of Local Authority Elected Members

Sara Moorhead SC



AILG
Association of Irish Local Government
authorities and elected members

The 21st Century Councillor in Irish Local Government

Research Commissioned by the Association of Irish Local Government

December 2023



Context - Main Characteristics of Local Government

- ❑ The key purpose of local government is to promote the well-being and quality of life of citizens and communities, through effective, accountable representation, and efficient performance of functions and delivery of services.
- ❑ Local authorities are multi-purpose bodies responsible for delivering a broad range of important local services.
- ❑ They are also the main vehicle of governance and public service at local level, leading economic, social and community development, delivering efficient and good value services, and representing citizens and local communities effectively and accountably.
- ❑ Local Government is also a key delivery agency for much of government policy at local level

Context - Main Characteristics of Local Government

- ❑ Outside of the Oireachtas, local authorities are the only bodies whose members are elected by direct vote of the electorate.
- ❑ Councillors are elected by local people to make local decisions, to articulate local views and to identify and meet local requirements.
- ❑ Councillors adopt policies that reflect the needs and legitimate expectations of the people who elect them.
- ❑ A key element of local government is that elected members and staff act in the interests of the people being served, seeking to meet their needs and give them the best possible quality of life.

Functional Areas of Local Authorities



Housing



Road Transportation and Safety



Water Supply and Sewerage (Water Services)



Planning and Development



Environmental Protection



Recreation and Amenity



Agriculture, Education, Health & Welfare



Miscellaneous

Role of the Elected Member/Elected Council

Local Government Act 2001 (as amended)

- ❖ The public face of our Local Authorities are the democratically elected Councillors.
- ❖ Membership of Local Authorities i.e. the number of elected members of the council of each local authority, is fixed by law under the Act (Sections 12 – 22)
- ❖ Section 63 – Statement of Local Authority (Statutory) Functions
 - (1) the function of a local authority is to provide a forum for the democratic representation of the local community and to provide civic leadership for that community
 - (4) Subject to law, the functions of a local authority shall be performed for or on behalf of the local authority and in its name by the elected council
- ❖ Section 64 – Representational functions of local authorities
 - (1) As a forum for the democratic representation of the local community, a local authority may represent the interests of such community in such manner as it thinks appropriate.
- ❖ Under law the elected council has both a statutory and a representative role

Role of the Elected Member/Elected Council – LG Act 2001

Statutory Role

- ❖ Statutory role is your legal position as elected members of your local authority
- ❖ Exercise your statutory role within the council chamber carrying out your statutory/reserved functions - powers passed by majority resolution.
- ❖ Councillors derive their powers by exercising their reserved functions
- ❖ Statutory Role encompasses;

Policy Role: The Elected Council is the policy making arm of the local authority within which the chief executive exercises their executive (operational) functions. Section 130 – “It is a function of the elected council of a local authority to determine by resolution the policy of the local authority”.

Reserved Functions: Decisions taken by the elected Council are called reserved functions because they are reserved for the Council. Reserved functions are set out in law and relate to important areas like strategic development or finance.

Role of the Elected Member/Elected Council – LG Act 2001

Statutory Role Cont'd

Decision Makers: As members of the Council, Councillors make decisions on:

- Corporate Plan & Annual Service Delivery Plan
- Annual Budget of the local authority
- Rate of Local Property Tax
- Local Economic and Community Plan
- County/City Development Plan
- Local Area Plans
- Climate Action Plan

Bye-Laws: Councillors make decisions about the local operation of the local authority – parking, speed limits, litter

- ❖ While responsibility for performance of local authority functions is shared between the elected members and the chief executive, the elected local authority members occupy the pre-eminent position of authority and status in the local government system.
- ❖ Section 132 states clearly that the duty of the chief executive, in relation to the elected council, is to carry into effect the decisions of the council and to advise and assist the Council in their role.

Role of the Elected Member/Elected Council – LG Act 2001

Representative Role

- ❖ Section 64 states that “As a forum for the democratic representation of the local community a local authority may represent the interests of such community in such manner as it thinks appropriate”
- ❖ Therefore, aligned to your statutory role, Councillors have a significant role to represent the views of their communities.
- ❖ The Councillor’s role and responsibilities include representing the electoral area for which they are elected and the local authority as a whole as well as their decision-making, policy making, regulatory and statutory duties.
- ❖ Councillors identify and track local problems and issues and bring this knowledge back into the council chamber to ensure better outcomes for the well-being and quality of life for the people and communities that they represent.
- ❖ Councillors work to ensure that the needs of their community are taken into account when the local authority is making decisions

Role of the Elected Member/Elected Council – LG Act 2001

Representative Role Cont'd

- ❖ where possible, ensure the views and concerns of local communities are reflected in the Council's decision-making process
- ❖ ensure the policies of the Council are reflected in the activities of a broad range of other public agencies to which they are nominated, such as Regional Assemblies, Education and Training Boards, Regional Health Fora, Joint Policing Committees
- ❖ assist individuals, community groups, schools and businesses in accessing appropriate local authority services
- ❖ represent the local authority on various local community and voluntary boards, groups and committees

Role of the Elected Member – Moorhead Report

Moorhead Report – Role of the Local Authority Elected Member

Moorhead's viewpoint that the role of councillor entails five main areas;

1. Policy making and local authority performance in the delivery of its services i.e. Statutory Role
2. Oversight, Governance and Compliance of and by the local authority
3. Representing the local authority and the community on external bodies
4. Community leadership and political advocacy
5. Representation of individual constituents, as appropriate i.e. Representative Role

Independent Review of the Role
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Role of the Elected Member – Moorhead Report

Role - Oversight, Governance and Compliance role of the Elected Member/Elected Council

- ❖ Local authorities, Elected Members, management and staff, should act in the public interest at all times.
- ❖ This entails respect for the rule of law, ethical behaviour and adherence to the principles of public life
- ❖ The powers vested in local authorities should be accompanied by a high degree of accountability, effective governance, and mechanisms to ensure adequate consistency and standards of performance.
- ❖ Elected Members have a significant governance and oversight role within their local authority and have various powers in relation to the functions of the Chief Executive.
- ❖ This enables the members to play a significant part in overseeing and directing the affairs of the local authority generally.

Role of the Elected Member – Moorhead Report

Role - Oversight, Governance and Compliance role of the Elected Member/Elected Council

Under the LG Act 2001, the Elected Members significant oversight powers including;

- ❖ Section 105 - Require the submission of any financial statements of the local authority by the CE
- ❖ Section 134 - Approval of the Local Authority Corporate Plan and Annual Service Delivery Plan
- ❖ Section 135 - Report to the Elected Members on the Capital Programme
- ❖ Section 136 - Furnishing of information by the CE to the elected council on any business or transaction of the authority
- ❖ Section 136 - Obtain a monthly report from the CE, a Management Report, on the performance of executive functions, including implementation of policy and the provision of services.
- ❖ Section 137 - Require the CE to submit plans, specifications and cost-estimates of particular works
- ❖ Section 138 - Require the CE to inform the members before performing any specified executive function (other than in respect of staff), in a particular instance or generally.
- ❖ Section 139 - Prohibit the undertaking of new works
- ❖ Section 140 - Require that a particular act, matter or thing be done by the chief executive
- ❖ Section 151 - Inspection of the CE's (Executive) Orders by the Elected Members.
- ❖ Section 152 - Require the CE to attend a meeting/committee of a local authority
- ❖ Schedule 10 - Provision for Elected Members to bring questions and motions to statutory council meetings

Role of the Elected Member – Moorhead Report

Role - Representing the local authority and the community on External Bodies

- ❖ The elected council are responsible for the promotion of the general economic, social and cultural development of their areas, and work with other agencies and interests to promote progress
- ❖ In addition to their statutory, elected members represent their electorate over a range of public issues and thus have an interest in the operation of other public agencies within their area and its general development.
- ❖ Local authorities have a right of representation on a broad range of other public agencies which operate regionally or locally, such as regional assemblies, education and training boards, regional health fora, joint policing committees, etc.
- ❖ Section 141 LG Act 2001 - Elected members may be nominated or appointed to represent their local authority on other bodies – Statutory Bodies and Local/Community/Voluntary Bodies, Committees & Boards

Role of the Elected Member – Moorhead Report

Role - Representing the local authority and the community on External Bodies

Section 141 - Duty of members appointed to other bodies.

- ❖ duty of that member or members to represent the local authority
- ❖ duty to present a report to your local authority on the activities and operation of that body
 - (a) annually, or
 - (b) at any other time, if so requested by resolution or by the Cathaoirleach
- ❖ notify the local authority of all attendances and any payments received by the member at meetings of the body concerned on a quarterly basis

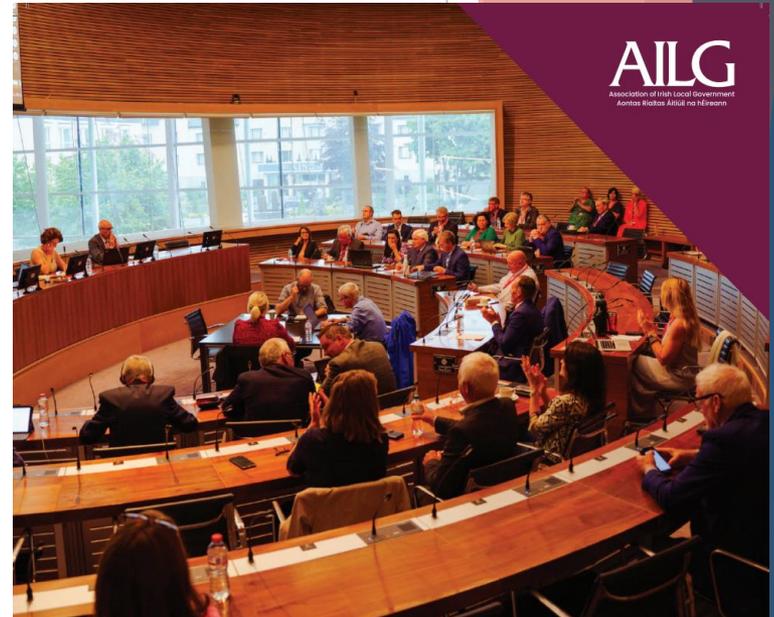
Role of the Elected Member – Moorhead Report

Role - Community leadership and political advocacy

- ❖ Strong community leadership is fundamental to being a good local councillor and having an effective elected council
- ❖ Through the development of appropriate policies and holding the executive to account to ensure these policies materialise, there can be substantial benefits for local communities.
- ❖ The community leadership role of the councillor/elected council may also be the most visible aspect for the communities in which you serve.
- ❖ A councillor/elected council can actively work between different groups of residents, community organisations and businesses, feeding local goals into new policies, as well as communicating the strategic goals of the local authority in a local context.
- ❖ The ultimate goal is to have as seamless an outcome as possible between local authority policy and local community aspirations.
- ❖ The common good of the community as a whole should therefore be at the heart of everything you do.

The 21st Century Councillor in Irish Local Government AILG/Maynooth MU Research Report

Role of the Councillor



The 21st Century Councillor in Irish Local Government

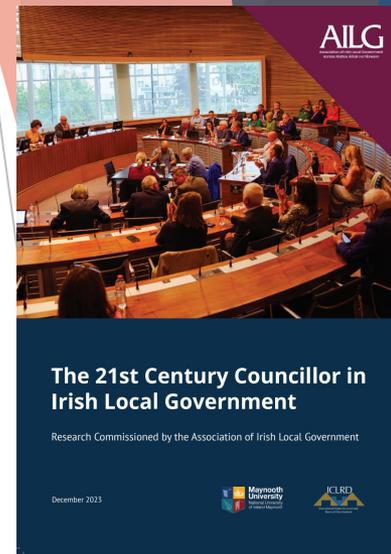
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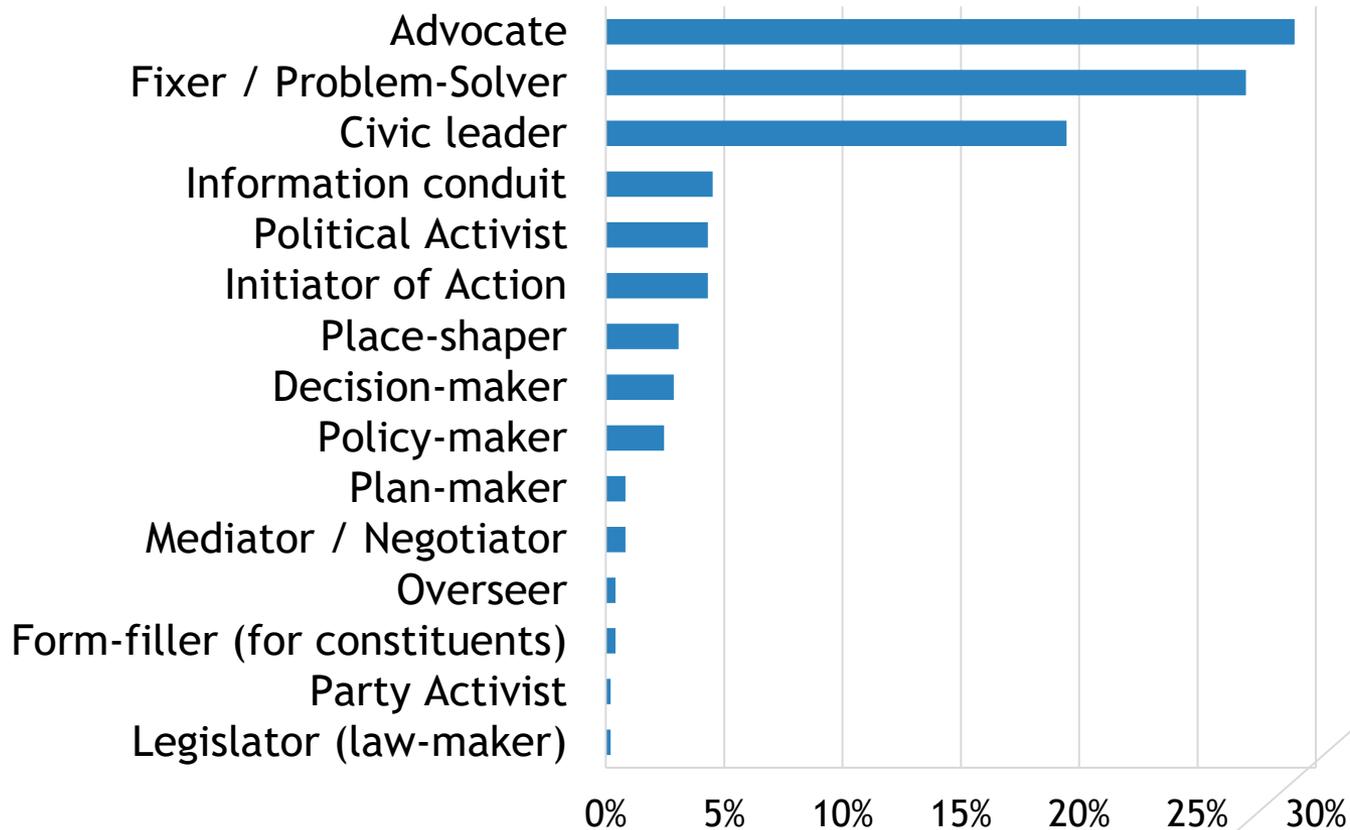


Perceptions of the Councillors' Role

- ❖ Very much intertwined with the role of local government;
- ❖ Multiplicity and very busy, but diminished;
- ❖ Part-time role requiring full-time commitment.
- ❖ Enjoyable and rewarding;
- ❖ Community oriented, Civic leadership – importance of representational role (in addition to statutory); and
- ❖ Need to increase public awareness and expectations;



Roles Which Councillors Feel Best Describe Them



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What Councillors Say

*"I genuinely love it. I really get good **enjoyment** out it... I try and influence policies..., the likes of Mrs. Murphy has a pothole outside, like getting that filled.... Like there is the day-to-day stuff. I like **interaction with people**, I still do that, I still go out, door-to-door, once a week for that personal interaction."*

*"I'd like people to **have a better idea of what we do, what the day-to-day job is**, that it's not just get the hedge trimmed, get potholes filled, get the lights fixed, don't put double yellow lines here - put double yellow lines there, that sort of thing; that there is a kind of a, you know, there's a...there's a **countywide dimension** to the job."*

*"It is a very enjoyable but immensely challenging role I don't campaign to ask people to elect me to an enjoyable role - I ask them to elect me so I can **listen, advocate, influence and challenge policy**. In theory I think that's worthwhile. In practice - the majority of policy is at best coming before us at final draft stage - the opportunity to influence is minimal."*

Role of the Elected Member

Final thoughts!!!!!!

- ❖ Rewarding but the role is demanding,
- ❖ Strive to attain a decent work-life balance
- ❖ Diminishing powers – opportunity to redress this with AILG
- ❖ With powers comes responsibility
- ❖ Local vs national issues
- ❖ Balance between statutory vs representative role – statutory/oversight role will determine if more powers are devolved while your representative role may determine your future re-election.

**Democracy is
based upon the
conviction that there
are extraordinary
possibilities in
ordinary people.**

✱

HARRY EMERSON FOSDICK



An outline of Reserved Functions - the Councillors' policy lever

Presented by Liam Kenny, Director, AILG

In the context of the AILG Induction Training Webinar programme

Welcome to all who are viewing whether newly elected or experienced Councillors

A guide to Reserved Functions

The business of a Council takes various forms but there are two classes of action which have a particular standing namely

Reserved Functions which are functions in law assigned to the elected Council as a collective body

And

Executive Functions which are actions taken by the Council's Chief Executive and its Staff as to implement the policy guidance of the elected Council

Example: **Reserved Function** Adopting the County Development Plan

Executive Function: Granting a specific planning permission under the terms of the County Development Plan



Reserved Functions - defining characteristics:

- The prerogative of the elected members ;
- Generally related to a policy area of the council e.g.:
Budget, Planning & Development
- Specified in law as being reserved to the elected members - this may be in general Local Government Law or in specialised law such as Road Traffic Law (e.g. special speed limits)

Context to Reserved Functions:

- The elected Council through its reserved functions sets the policy parameters within which the Chief Executive and the Council organisation delivers its services to the public.
- The C.E. and staff may have a role both before and after the elected Council makes a decision.
- For instance preliminary to the adoption of, say, a Fire Services Plan by the Elected Council, the CE and Chief Fire Officer will brief the Councillors on the needs by way of personnel, equipment and premises including setting out various options.
- The elected Council will consider this input by its professional advisors and then make a decision on the proposal put forward by the Chief Executive.
- Assuming the Council approves of the draft put forward by the senior staff it will then be a function of the Chief Executive to recruit staff, deploy equipment and arrange resources to put the Plan into reality.

Some of the most frequently occurring Reserved functions speak to the Governance functions of the elected Council - acting as a check on the activities of the Chief Executive and the staff.

A survey of local newspapers and Council websites will demonstrate the following reserved functions which appear frequently on the Agendas of Council meetings:

- Section 183 notice regarding the sale of Council land to another party - a Reserved Function which brings transparency and oversight to the disposal of the Council's assets.
- Notices regarding the making bye-laws relating to Parks, Beaches, Litter, Parking, Control of Dogs and Horses ... and more ...



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

Most reserved functions can be decided by a majority vote as long as there is a quorum present.

However, for some reserved functions a qualified majority is required for the motion to pass.

An example would be a resolution approving a “Material Contravention of the Development Plan” which requires a positive vote by three-quarters or more of the members of the Council.



'Unsafe' laneway in Dublin City closed due to anti-social behaviour

Harbour Court was closed after the council heard the situation had become “untenable” for businesses.

9.44am, 9 Jan 2024 ↗ 50.9k 📄 80



A DUBLIN LANEWAY has been closed by Dublin City Council after reports that criminal activity, including the sale of drugs, and other anti-social behaviour was

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

Some reserved functions are part of procedure where the vote of the elected members is the decisive element following a process of notice and consultation.

An example would be the procedure known as the “Extinguishment of a Right-of-Way” - in this case there is a series of steps involving the publication of notices inviting submissions from members of the public.

It is only when this process has been faithfully observed that the case goes to the elected Council to make a final decision on whether to close or not the right-of-way.

Are reserved functions subject to any further approval?

In most cases the decision of the elected Members is operative without the need for any further approval.

However there are some few cases where a further approval is required. For example, special speed limits made by a Council for a stretch of Regional Road requires the additional approval of the Minister for Transport.

Current	Proposed
	
	
	
	

Where can reserved functions be decided - Municipal Districts or full Council?

The 2014 Local Government Act set out three categories for Reserved Functions;*

- a) Must be decided at MD level only e.g. making a casual trading bye-law for a fair or market
- b) Must be decided at plenary Council only - adopting the City or County budget
- c) May be decided at either Council or Municipal District e.g. deciding on a Council's own development proposal (Part 8).

A plenary council may devolve a power downwards to a Municipal District

The reverse can also happen but only with Ministerial sanction.

The Dublin Councils, Cork and Galway do not have Municipal Districts - thus all decisions are taken at Plenary level.

New reserved functions



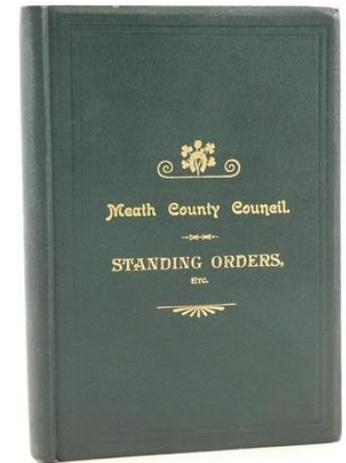
New reserved functions are being added almost every year as new challenges in life meet a legislative response.

For instance in 2021 climate change legislation mandated Councils to adopt a “climate action plan” setting out the measures and mitigations which the Council proposed to address problems presented by climate.

Also in 2021 Marine planning legislation conferred on Councils a requirement to make plans complementary to land-based Development Plans for developments taking place in their coastal waters e.g. wave-turbines, marinas, etc.

Reserved functions within the Council Chamber:

- * Many Reserved functions related to ‘democratic housekeeping ’ within the elected Council itself.
- The election of a Mayor/Cathaoirleach
- The election of Committee Chairs and Members
- The review of Council Standing Orders by the members so as to specify how the business of their meetings will be ordered





Reserved functions governing the Financial Business of the Council:

- Adopting the Annual Budget including the Commercial Rate
- Setting the Local Property Tax at 15% up or below a baseline.
- Making schemes facilitating rates waivers
- Reviewing the Annual Financial Statement of the Council.
- Considering the Report of the Council's Audit Committee following its engagement with the Local Government Auditor.

Relationship of Chief Executive to the Council & Reserved Functions

- The Council formally sanctions the appointment of a new Chief Executive following a professional recruitment process
- The Chief Executive is obliged to put into action a direction given by the Council in relation to a policy matter.
- The Council can dispense with the services of a Chief Executive but such an action requires a three-quarters vote of the Council together with the findings of an enquiry panel and the approval of the Minister

Accountability of Chief Executive to Councillors via Reserved Functions

Local Government Act 2001

- 136. Furnishing of information to elected council.
- 137. Plans, specifications to be prepared for elected council.
- 138. Prior information to elected council.
- 139. Direction that works not proceed.
- 140. Requirement that a particular thing be done.



For further information Reserved Functions, see also the Leaflets on the AILG website under “Policy and Publications” www.ailg.ie

