



Relate

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Changes to local government and local development structures

The local elections will be held on 23 May 2014. The elections to the European Parliament will be held on the same day. The number of local authorities has been reduced and there have been a number of other changes to local authority structures, powers and governance. These include changes to the structures for local and community development. At the same time, the city and county enterprise boards have been replaced by local enterprise offices within the local authorities. Here we describe the main changes which have come into effect recently or will come into effect in the near future. This does not cover all aspects of local authority activity: there is a particular emphasis on who makes the decisions about local services and activities; the role of the local authorities in the promotion of enterprise; and local and community development.

Legislation on local government

There is a wide range of legislation dealing with local government. The *Local Government Acts 1925–2014* deal with their structures and powers. The *Local Government Act 2001* includes some consolidation of previous legislation. The most recent legislation, the *Local Government Reform Act 2014*, provides for a range of changes to the organisation and work of local authorities. Among other things, it provides for the amalgamation of a number of local authorities; the abolition of town councils; the abolition of city and county development boards; the establishment of local community development committees and it provides for a range of changes to the functions carried out by local authorities. It also provides for the holding of a plebiscite in Dublin on the issue of a directly elected mayor but the conditions for holding that have not been met. It deals with a number of other issues which are not covered here because our emphasis is on changes to the local authorities. The 2014 Act is very long and complex and

amends a wide range of legislation. The main changes in the Act in relation to the amalgamation and abolition of local authorities will come into effect on 1 June 2014 after the elections of 23 May.

The local authorities are also governed by legislation dealing with housing, planning and development, roads, the environment, elections and a number of other matters.

The 2014 local authorities

Plans for changes to local government structures and activities were set out in *Putting People First – Action Programme for Effective Local Government* which was published in October 2012. These plans are implemented by the 2014 Act.

There will be 31 local authorities after the 2014 elections:

- Three city councils: Cork, Dublin and Galway
- Two city and county councils: Limerick and Waterford
- 26 county councils, of which three are in Dublin (Fingal, Dún Laoghaire-Rathdown and South Dublin).

Amalgamation of councils

The 2014 Act provides for the amalgamation of the city and county councils in Limerick and Waterford, and of North Tipperary and South Tipperary County Councils. The newly amalgamated councils will be called Limerick City and County Council, Tipperary County Council and Waterford City and County Council.

Cities and counties

Cork, Dublin and Galway each retain a city council. Limerick and Waterford no longer have city councils. Kilkenny will not have a city council; the Kilkenny Borough Council is being abolished and the only local authority will be Kilkenny County Council.

Town councils

The 75 town councils and the five borough councils (Clonmel, Drogheda, Kilkenny, Sligo and Wexford) are all being abolished. Residents of those towns and boroughs have had a vote for those councils and also for the county council for their area. So, for example, if you live in Naas, you have had two votes in the past local elections – one for Naas Town Council and one for Kildare County Council. In May 2014, you will have a vote for Kildare County Council only.

The functions carried out by these bodies will be carried out by the county council or city and county council from 1 June 2014.

Numbers of local authority members

Because of the abolition of the town and borough councils, the overall number of local authority members will be considerably reduced but there will be an increase in some areas – notably the councils in Dublin. In the 2014 local elections, 949 councillors will be elected. There are 1,627 at present. Each council has at least 18 members; Dublin City Council has 63 members, Cork County Council has 55 members and the rest have between 18 and 40 members.

Electoral areas

Each of the 31 local authority areas is divided into electoral areas. Each electoral area is entitled to elect a set number of members to the local authority. The boundaries of the local electoral areas and the number of councillors to be elected for each area were recommended in the *Local Electoral Area Boundary Committee Report* which was published in May 2013. The recommendations in this report are implemented in the 2014 Act. Local electoral areas and municipal district orders were made under the Act setting out the boundaries. There are 137 local electoral areas for the 31 local authorities. Website: boundarycommittee.ie

Municipal districts

The 2014 Act provides for the establishment of designated municipal districts. They will exist in each of the counties and city and counties outside Dublin. The local authority members elected from these municipal districts will take certain decisions in relation to the districts. For example, the municipal district members will exercise some of the reserved functions in respect of their district – see page 3.

One or more of the electoral areas constitute a municipal district. The municipal districts which contain the areas formerly covered by Limerick, Waterford and Kilkenny city councils will be known as metropolitan districts. The municipal districts which contain the areas formerly covered by Clonmel, Drogheda, Sligo and Wexford borough councils will be known as borough districts. Municipal districts have the same legal status whether they are called municipal districts, metropolitan districts or borough districts.

Each county and each city and county has at least two municipal districts. There are 95 municipal districts in total. In most cases the electoral area constitutes the municipal district. However, the metropolitan districts of Limerick and Waterford (the areas formerly covered by the city councils) each have three electoral areas and the municipal districts of Dundalk, Kilkenny City, and Mullingar each have two electoral districts.

The local authority budget will set out the amount to be allocated to the municipal districts. When the overall budget is agreed, the specific amount to be allocated to each district is then decided. The municipal district members then decide how that amount is to be used.

The six local authorities which will not have municipal districts – the three city councils and the three Dublin counties – may establish area committees but they will not have the same functions as municipal districts.

Regional assemblies

There are eight regional authorities at present. The members are appointed by the local authorities. Their functions mainly involve the promotion of co-ordination and cohesion of services. There are two regional assemblies which were established in July 1999 to provide a structure for the two

regions which were identified for the purposes of EU structural funds. The 2014 Act provides that the current regional authorities and assemblies be replaced by regional assemblies. The aim of the new assemblies will be to co-ordinate, promote or support strategic planning and sustainable development and promote effectiveness in local government and public services. The number of assemblies and their boundaries have not yet been announced.

The new assemblies will have a greater role in planning and economic development. Their main function will be to draw up regional spatial and economic strategies. These will replace the current regional planning guidelines and will be drawn up in conjunction with the various enterprise and economic development agencies. The existing regional planning guidelines will remain in place until these new strategies are drawn up. The 2014 Act sets out the details of how the strategies are to be developed.

Local authority functions and decisions

Local authority functions are carried out by the elected members of the council, the municipal district members or the chief executive (county or city manager). Functions that may be carried out only by the elected members are known as reserved functions. The 2014 Act provides that some reserved functions may be carried out by the municipal district members, some may be carried out either by the municipal district members or the full council, and some may be carried out only by the full council.

The overall local authority may delegate certain functions to the municipal district members, subject to certain conditions. The delegation of functions and the revocation of any such delegation must be agreed by at least half of the total membership. There are specific functions which the local authority may not delegate.

Directions to the manager/chief executive

The elected members have the power to give directions to the chief executive on various issues. Their power to give directions in relation to planning matters has been removed – this was one of the recommendations of the Mahon Tribunal. Their power to give directions in relation to the provision of a service, finance or other form of assistance is also removed. The procedures for giving direction are also changed.

Reserved functions

The 2014 Act lists the reserved functions of local authorities, that is, those functions which must be carried out by the elected representatives. Many of the functions described in the lists are matters of procedure, for example, the convening and conduct of meetings. The following are the main functions which have an impact on the public:

Decisions by municipal district members

- Adoption of statements regarding the economic elements of the local economic and community plan for the consideration of the full county or city and county council
- Making amendments to a draft budgetary plan
- Adoption of an annual schedule of proposed works to be carried out in the district
- Establishing a community fund for the support of community initiatives; a community initiative is any project or programme which, in the opinion of the local authority, will benefit the local community and includes the provision or improvement of amenity, recreational, cultural or heritage facilities, the protection or enhancement of the environment and programmes to promote social inclusion and community development. Local authorities have the power to establish a community fund in order to support community initiatives and may accept contributions to such a fund by any voluntary, business or community group, other local authority or public authority or other person and may itself make contributions to such fund.

- Adopting a scheme for the making of an annual contribution by the residents in the area to which the scheme applies towards particular community initiatives specified in the scheme
- Deciding, subject to the approval of the Minister, that a particular function of the municipal district members should be performed only by the local authority
- Delegation to a designated body of a function (including maintenance) in respect of the management and control of dwellings
- Arrangements in relation to school wardens
- Orders declaring a road to be a public road and abandoning a public road
- Orders extinguishing a public right of way
- Resolutions specifying the places in which vehicles may be parked either indefinitely or for a specified period
- Making of bye-laws for the control and regulation of parking on public roads, including parking fees
- Decisions on traffic calming measures
- Decisions on taxi stands
- Tree preservation orders
- Control of casual trading
- Extinguishment of a market right
- Prevention and control of litter and making of litter management plans
- Making submissions to a fire authority regarding a proposed indoor event that requires a licence
- Resolution on the expiry times of a special exemption order for liquor licences
- Bye-laws in respect of the use of temporary dwellings and orders in relation to the creation and retention of temporary dwellings
- Bye-laws in relation to national monuments of which the local authority is the owner or guardian
- Proposal to change placenames, including decisions on whether or not a vote is to be held on the issue
- Charges for local authority amenities, facilities and services

Decisions by municipal district members or full local authority

- Civic honours
- Twinning arrangements with other areas
- 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
- Local area plans
- Protected structures
- Special planning control schemes
- Creating a public right of way
- Housing services plans
- Providing assistance for the promotion of the interests of the local community
- Flood risk management plans

Decisions by full local authority

- Making the integrated local economic and community plan
- Implementing the economic elements of the plan
- Adopting the draft local authority budget
- Decisions in relation to rates including the annual rate on valuation to be levied, decisions in relation to refunds for vacant premises, waiver of rates and payments by instalment
- Delegation of additional functions to municipal district members
- Approving the corporate plan
- Adopting the draft local authority service delivery plan
- The appointment of the chief executive
- Special amenity area orders, landscape conservation area orders
- Nominating candidates for the Presidency
- Housing decisions, including the order of priority for local authority housing and affordable housing, local authority house purchase schemes, Traveller accommodation programmes, differential rent schemes and homelessness action plans
- Decisions on local and regional roads, including the imposition of tolls on such roads
- Special speed limits (the *Road Traffic Acts* set out a range of speed limits including ordinary speed limits, built-up area limits, national roads and motorway limits; a local authority may set special speed limits for the roads in its area)
- Control of skips on public roads
- Development plans
- Development contribution schemes
- Planning schemes for strategic development zones
- Decisions in relation to fire services
- Air quality management plans and pollution control orders
- Various decisions in relation to water supply and water quality management
- Harbours
- Horse control areas
- Waste collection
- Library development
- School meals
- Control of dogs
- Variation of the rate of Local Property Tax
- Appointment of members of local community development committee
- Approving a local and community development programme
- The adoption of a Framework for Public Participation in Local Government

Devolution of further functions to local authorities

The 2014 Act allows for the functions of a number of government departments and State bodies to be devolved to local authorities. No decisions have yet been made on devolving any particular function but the Minister has said that it is envisaged that functions in relation to tourism, ports, national parks, and rural transport will be devolved at an early date.

Local and community development

Putting People First – Action Programme for Effective Local Government sets out plans for the greater alignment of local government and local development. An Alignment Working Group was established to assist with implementation. This Group included representatives of the City and County Managers Association, the Irish Local Development Network and Pobal. The Irish Local Development Network is the representative body for the 50 local development companies which currently deliver the Local and Community Development Programme and, in rural areas, the Leader Rural Development Programme. Website: ildn.ie. Pobal is a not-for-profit organisation which manages a number of funding programmes on behalf of the Irish Government and the EU: Website: pobal.ie

The final report of the Alignment Working Group is at: <http://www.environ.ie/en/Publications/LocalGovernment/Administration/FileDownload,31308,en.pdf>

Local community development committees

The *Local Government Reform Act 2014* provides for the abolition of the city and county development boards (CDBs) and the establishment of local community development committees (LCDCs). CDBs were established in each county and city in 2000. They are composed of representatives of local government, local development bodies (area partnerships, Leader groups, and county and city enterprise boards) and the State agencies and the social partners operating locally. The CDB's remit was to draw up and oversee the implementation of a county or city strategy for economic, social and cultural development. The CDBs are not funding agencies but they did have a role in trying to ensure coherence and co-ordination among the local development funding agencies.

From 2014, each local authority must establish a LCDC and may establish more than one such committee if the Minister approves. The aim of the LCDCs is to develop, co-ordinate and implement a coherent and integrated approach to local and community development. The main function of an LCDC is to prepare, implement and monitor the community elements of the six-year local economic and community plan.

Membership of LCDCs

The membership of the LCDCs will include members of the local authority, local authority staff, representatives of public bodies which provide services in the area; representatives of local community interests; local community representatives; and representatives of publicly funded or supported local development bodies. Representatives of local community interests may include representatives of non-governmental organisations, development agencies, community-based groups, associations recognised by the local authority as being concerned with promoting the interests of the local community, youth organisations, cultural bodies, sporting bodies and social movements and networks. The majority of members must be from the non-statutory sector.

The chief officer of the committee (a local authority official) will, in consultation with the corporate policy group (see page 7), identify the groups who should make nominations to the committee and the local authority will appoint those nominees to the committee.

The Minister may make regulations relating to, among other things, the representation of sectoral interests on the committee, procedures to be adopted and the involvement of public authorities in the work of the committee. The Minister may also issue policy guidelines to the committees on a wide range of matters including consultation with local communities and measures for promoting participation by citizens and communities in the work of the committees and co-ordination of local and community development activities, avoidance of duplication and optimising the use of available resources.

Functions of LCDCs

As already stated, the main function of an LCDC is to prepare, implement and monitor the community elements of the six-year local economic and community plan. It must consider the economic elements of the plan in order to enhance co-ordination with the community elements and ultimately integrate the two elements but it does not have a role in deciding on the economic elements. It has a general role in seeking to ensure effectiveness, consistency, co-ordination and avoidance of duplication between the various elements of local authority activities in the community.

The local economic and community plan must be consistent with the local development plans made by the elected members and with the regional spatial and economic strategies. The plan must be considered by the municipal district members and approved by the council.

The Minister may issue general policy guidelines to the committees. Certain publicly-funded bodies will be required to co-operate with the committees.

The committee may make an agreement with a public authority, a local development or community development body or person for the carrying out of its functions. A local development or community development body includes a not-for-profit organisation that provides programmes, offers services or engages in other activities that promote and support the interests of a local community or group.

When carrying out their functions, the LCDCs must have regard to, among other things, the need:

- To make the most efficient use of the resources which are available to them
- For consultation with, co-operation with, and the co-ordination of their activities with those of local authorities, public authorities and publicly-funded bodies whose activities may affect them
- For consistency with the policies and objectives of the Government or any public authority

- To integrate sustainable development considerations into policy development and implementation
- To promote social inclusion

Local community development programmes

The Local and Community Development Programme (LCDP) is implemented at present by the local development companies. The local development companies are private companies which receive money as part of a contract to deliver programmes on behalf of the State. The current programme officially ended at the end of 2013. It is being operated on a transitional basis for 2014. About €47 million is being spent on the programme in 2014. It is estimated that about 1,900 people work in the sector. The new local community development committees (LCDCs) of the local authorities will take over the management of the current contracts and the oversight of the programme from 1 July 2014. A new programme will start in 2015. Its implementation will be subject to a public procurement process which will be open to the local development companies, other not-for-profit groups and commercial firms.

Local enterprise offices

The *County Enterprise Boards (Dissolution) Act 2014* provides for the dissolution of the city and county enterprise boards (CEBs) and the transfer of their functions to Enterprise Ireland. The CEBs were dissolved on 15 April 2014 (SI 175/2014). The CEBs provided support for micro-enterprises when starting up and expanding, and they encouraged enterprise at local level. They provided advice, direction, training and grant support for anyone who wished to start a business. They generally provided grant assistance only for enterprises in the manufacturing or internationally traded services sector.

Their functions are now being carried out by local authorities on behalf of Enterprise Ireland. Local enterprise offices (LEOs) are being established within each local authority. They will perform the functions of the CEBs and the enterprise support services which were already being provided by local authorities. Enterprise Ireland has entered into service level agreements with the local authorities which provide that the LEOs will offer services under four headings: business information and advisory services, enterprise support services, entrepreneurship support services and local enterprise development services. CEB employees are being transferred to the LEOs or to Enterprise Ireland or Forfás. Enterprise Ireland will provide support to the LEOs.

There were 35 CEBs. Due to the change in local authority structures, there are 31 LEOs. Unlike the CEBs, the LEOs will not have a board structure. Each will be an executive office responsible for implementing the policy decisions made by the economic development directorate in the relevant local authority. Each LEO is expected to develop a local plan for boosting enterprise.

There are no immediate plans to change the budget arrangements, grant eligibility, or grant assistance rates which were operated by the CEBs. The LEOs will be mainly funded by central government – there is an allocation of €29.4 million for the CEBs/LEOs in 2014. This includes an additional €3.5 million which will be primarily targeted at youth entrepreneurship. This funding is overseen by Enterprise Ireland. Local authorities may also allocate funding to the LEOs.

Public participation in local government

The *Local Government Reform Act 2014* provides that the local authorities may take all appropriate steps to consult with and promote effective participation of local communities in local government. Each local authority will be required to draw up a framework for public participation in local government. The Department of the Environment, Community and Local Government will make regulations and issue guidelines in relation to this framework. The framework will set out the mechanisms by which citizens and communities will be encouraged and supported to participate in the decision-making processes of the local authority. The adoption of the framework is a reserved function.

The Department of the Environment, Community and Local Government is providing funding for the first half of 2014 to the community and voluntary fora in respect of citizen engagement with local government. From July 2014, decisions on any such funding will be made by the individual local authorities. A community and voluntary forum was established in each city and county to enable the sector to engage in the CDB process and with the local authorities' strategic policy committees.

The *Working Group Report on Citizen Engagement with Local Government* was published in February 2014 and is available at: <http://www.enviro.ie/en/Publications/Community/CommunityVoluntarySupports/FileDownload,36779,en.pdf>

Governance of local authorities

The 2014 Act provides for a number of changes to governance arrangements in local authorities. These include expanding the remit of strategic policy committees which deal with economic development and support for enterprise. The membership of the corporate policy groups is being expanded and will include the Cathaoirleach, the chairs of the strategic policy committees and representatives of the municipal districts. There are also changes in the way budgets are managed and in the rules governing the conduct of meetings.

Service plans

Local authorities must draw up service delivery plans which identify the services being provided and the standards that apply to those services. New procedures for evaluating the services and assessing the standards are being put in place.

Financial oversight

A new independent National Oversight and Audit Commission for Local Government is being established. Its function is to review the performance of local government, to oversee financial performance and the implementation of national policy.

City and county managers

City and county managers will be known as chief executives from 1 June 2014.

Titles

In general, the chair and deputy chair of a local authority are called the Cathaoirleach and Leas-Chathaoirleach respectively. However, alternative titles may be used in some cases. Cork and Dublin City Councils are entitled to use the titles Lord Mayor and Deputy Lord Mayor. Galway City Council is entitled to use the titles Mayor and Deputy Mayor. Each may decide to use Cathaoirleach instead. The City and County of Limerick and the City and County of Waterford may decide to use the titles Mayor and Deputy Mayor.

The following municipal districts may decide to use the titles Mayor and Deputy Mayor:

- The municipal districts which were formerly Limerick City Council and Waterford City Council
- The municipal districts which were formerly borough councils – Clonmel, Drogheda, Kilkenny, Sligo and Wexford
- Municipal districts which include a town with a population of at least 20,000

County councils will not be entitled to use the titles of Mayor or Deputy Mayor.

The members elected for each municipal district will elect a Cathaoirleach and a Leas-Chathaoirleach for their grouping.

The Citizens Information Board provides independent information, advice and advocacy on public and social services through citizensinformation.ie, the Citizens Information Phone Service and the network of Citizens Information Services. It is responsible for the Money Advice and Budgeting Service and provides advocacy services for people with disabilities.

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Rates

Rates are taxes which are levied on the occupiers of commercial property. At present, they are levied annually by county, city, borough and some town councils. In the case of town councils which cannot levy rates themselves, the relevant county charges an extra amount to pay for the costs of the town council. Each year the level of the rate (known as the Annual Rate on Valuation or ARV) is determined by the elected council as part of the budgetary process. The annual rates bill for a commercial premises is calculated by applying this ARV to the valuation of the property concerned. The valuation is carried out by the Valuation Office which is a central government agency. Website: valoff.ie. The Valuation Office is currently engaged in a national programme to revalue all commercial and industrial properties in Ireland. It has recently published new valuation lists for Dublin City and for all of Waterford. A commercial property occupier who disagrees with the valuation may appeal to the Valuation Tribunal. Website: valuationtribunal.ie

The *Valuation (Amendment) (No.2) Bill 2012* is currently before the Oireachtas. It provides for a number of changes to the valuation system including self-assessment of the valuation of certain premises, and for changes to the appeals procedures.

From 1 June 2014, there is one rating authority for each county and each county and city, and the level of rates will be standardised across the county. This standardisation may take place over a maximum of ten years but the Minister may extend this to 20 years in particular circumstances.

At present, owners of unoccupied commercial property can get a refund of 50% in the cities of Dublin, Cork and Limerick. Everywhere else a refund of 100% is granted. The 2014 Act allows the local authority to decide what refund will apply in its area and may apply different refunds in the different electoral areas. This is a reserved function of local authority members.

At present, new occupiers of commercial buildings are liable for up to two years for the unpaid commercial rates of the previous occupier. This provision is repealed by the 2014 Act. Owners of rateable property will be obliged to tell the local authority of a transfer of the property – whether that transfer is of ownership or under a lease. Failure to do so could result in having to pay up to two years' rates on the property.

Elections and bankruptcy

The *Electoral (Amendment) Act 2014* provides that you may no longer be disqualified from standing for election to either the Dáil or the European Parliament if you are declared a bankrupt, and you are not required to cease membership if you are declared a bankrupt while a member. As a result of the change in relation to the Dáil, a similar change applies to election to, and membership of, the Seanad.

The bankruptcy disqualification for election to, and membership of, the Dáil has existed since the foundation of the State and also existed for parliamentary elections prior to that. The disqualification in relation to the European Parliament has existed since direct elections to that parliament were introduced in 1979. There had been a similar disqualification in respect of local elections and membership of local authorities but this was removed in 1974.

Disqualifications for bankruptcy continue to exist in a range of other areas, for example, in respect of many State boards. There are no similar disqualifications for people who are involved in any of the new personal insolvency processes.

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