



20 April 2020

Councillor Michael Cahill
President
Association of Irish Local Government (AILG)
Maynooth

Dear Mr President

I refer to the important matter of the holding of Council meetings during this COVID-19 national emergency and the COVID response measures announced by An Taoiseach on 27th March and extended on Friday 10th April to Tuesday 5rd May.

Council meetings are an integral and critical part of local democracy through which elected councils carry out statutory reserved functions and provide policy direction and oversight to local authorities. Arrangements for Council meetings are a matter for elected members who must, in accordance with the relevant legislation, ensure the effective discharge of Council business, including meeting statutory obligations.

In making such arrangements, Councils should take account of the public health measures introduced by Government, on the advice of the National Public Health Emergency Team (NPHE), to stem the spread of the COVID-19 virus. Councils should also have regard to the attached Health Act 1947 (Section 31A - Temporary Restrictions) (Covid-19) Regulations 2020, as amended (S.I. 121 of 2020) (“the 2020 Regulations”).

The purpose of these measures is to protect the health of elected members and local authority employees required to support council meetings, as well as members of the public and/or media who may attend such meetings. Links to the latest public health information and advice are at Annex 1 below.





Given the current public health advice and the 2020 Regulations, appropriate steps will have to be taken by Councils to ensure compliance and some matters for consideration by Councils in holding meetings in this unprecedented period are presented at annex 2.

It is noted that casual vacancies have arisen in Councils following the recent elections to Seanad Éireann. In such instances, the co-option of new members is governed by the provisions of Section 19 of the Local Government Act 2001 (as amended). Section 19(4)(a) of the 2001 Act provides that co-options shall be made, after due notice, “*at the next meeting of the local authority after the expiration of 14 days from the occurrence of the vacancy or as soon after the expiration of the 14 days as circumstances permit*”.

In relation to “Incorporeal Council Meetings” by way of online platforms, the Department is of the view that the provisions of the 2001 Act require meetings convened for a statutory purpose under that Act to be convened in a physical place, *in so far as practicable*, the principal Council offices. To convene such meetings, at which resolutions are determined or votes taken for example, in a virtual space or on an online platform would give rise to legal uncertainty regarding any decisions taken by the Council at such meetings. Therefore, it is strongly recommended that formal decisions, which are required under statute to be made by a Council at a meeting properly constituted under the Act, are not taken by Councils meeting incorporeally on online platforms.

It is the case that online platforms and other technologies are being used widely across the public service and proving invaluable in maintaining operations and essential services across the State. Indeed, this approach is being used very effectively by local authorities across their areas of activity. While recognising that there may be constraints on resources and capacities available at this time, the use of technological solutions is encouraged by local authorities to ensure that elected members can carry out their duties and functions. To the greatest extent possible, elected members



should be supported to enable them to engage in Council business through the use of technology.

If Councils have any specific concerns or matters arising in relation to Council governance at this time, please contact the Local Government Governance and Elected Members Section (Email: diarmuid.o'leary@housing.gov.ie; gary.mcguinn@housing.gov.ie or jeanette.young@housing.gov.ie).

Finally, I would like to take this opportunity to acknowledge the commitment shown by local authorities in continuing to provide essential local services during this time of national crisis.

Yours sincerely

Barry Quinlan
Assistant Secretary
Local Government Division

C.C. Mr Michael Walsh, Chairman, County and City Management Association (CCMA)



Annex 1:

The latest public health measures, introduced by the Government on the recommendation of the National Public Health Emergency Team (NPHE), advising people to stay in their homes can be found here:

<https://www.gov.ie/en/publication/cf9b0d-new-public-health-measures-effective-now-to-prevent-further-spread-o/>

Health Service Executive (HSE) guidelines on protecting yourself and others from COVID-19, including social distancing, are here:-

<https://www2.hse.ie/conditions/coronavirus/protect-yourself.html>

Important guidance on “cocooning” to protect people over 70 years and those extremely medically vulnerable from COVID-19 is available here:

<https://www2.hse.ie/conditions/coronavirus/cocooning.html>

<https://www2.hse.ie/conditions/coronavirus/at-risk-groups.html>

<https://www.gov.ie/en/publication/923825-guidance-on-cocooning-to-protect-people-over-70-years-and-those-extr/>



Annex 2:

Options for consideration in the holding of Council meetings at this time

1. Reduced member sittings of Councils could be considered, by agreement, provided there is the required minimum quorum present (25% of total members plus 1), in accordance with Paragraph 11 of Schedule 10 to the Local Government Act 2001 (as amended). In this regard, the Department is aware of instances where Councils agreed that only a quorum of elected members would participate in the Council meeting and this allowed for social distancing requirements to be observed in the Chamber.
2. Paragraph 2 of Schedule 10 of the LG Act 2001¹, places an obligation on local authorities to make arrangements for accommodation for the holding of meetings and *“in so far as practicable”* the place for the holding of meetings should be the principal Council offices. Where it might facilitate social distancing requirements, Councils could however decide to designate other more suitable places for the holding of meetings.
3. Councils could proactively consider assigning appropriate statutory decisions to municipal district level, in accordance with Section 21 of the Local Government Reform Act 2014, for example, where it may be more feasible to conduct meetings of municipal district members in a manner which respects social distancing requirements. In this regard, local authorities may look to Schedule 14A of the 2001 Act, as inserted by the Local Government Act 2014 Act, which lists the division of statutory functions between plenary and municipal level. In particular, Part 2 of Schedule 14A lists those statutory functions that may be carried out at either plenary or municipal level. Councils may wish to consider assigning such statutory functions to municipal level in cases where this has not already been done.

¹ Schedule 10 of the Local Government Act 2001 “Meetings and Proceedings of Local Authorities”



It is recognised that, if a Council wished to explore options 2 and 3 above, consideration should be given to whether resolutions to amend existing standing orders may be required and, if so, how this could be achieved in a manner which complies with public health advice and the 2020 Regulations.

4. Councils may also wish to consult guidance provided by the World Health Organisation (WHO) - and in particular the advice linked herewith on getting the workplace ready for COVID-19, including on how to manage risk when organising meetings:

<https://www.who.int/docs/default-source/coronaviruse/getting-workplace-ready-for-covid-19.pdf>