



Bill Digest

Local Government Bill

2018

No. 91 of 2018

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Abstract

The [*Local Government Bill 2018*](#) provides for the transfer of part of the administrative area of Cork County Council to Cork City Council. It also provides for a single chief executive position for Galway County Council and Galway City Council. The Bill amends, among others, the [*Local Government Act 1991*](#), the [*Local Government Act 2001*](#) and the [*Valuation Act 2001*](#).



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Contents

Summary	3
Introduction	10
Background & policy context	12
Principal provisions	33
Commentary & financial implications	42
Appendices	44

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Summary

The [Local Government Bill 2018](#) seeks to provide for the transfer of part of the administrative area of Cork County Council to the administrative area of Cork City Council. The Bill also seeks to abolish the respective positions of chief executive of Galway County Council and Galway City Council and establish the position of one chief executive for both councils.

Background and policy context

The Bill stems from a broader and ongoing process of local government reform. The specifics of this Bill refer in the main from the commitment set out in the Government's [Programme for a Partnership Government](#) (PPG) for the Minister to prepare a report for Government and the Oireachtas "on potential measures to boost local government leadership and accountability".¹ The PPG also includes a commitment to ensure that local government structures "strengthen local democracy".²

The commitments outlined in the PPG follow on from "[Putting people first: Action programme for effective local government](#)", 2012 (Putting People First) which is the current policy statement on local government reform and brought to fruition in part in the [Local Government Act 2014](#)

As well as the above, the policy background sections of the Digest also look at the following:

- Local authority mergers and amalgamations
- Review of local government arrangements in Cork; and,
- Review of local government arrangements in Galway.

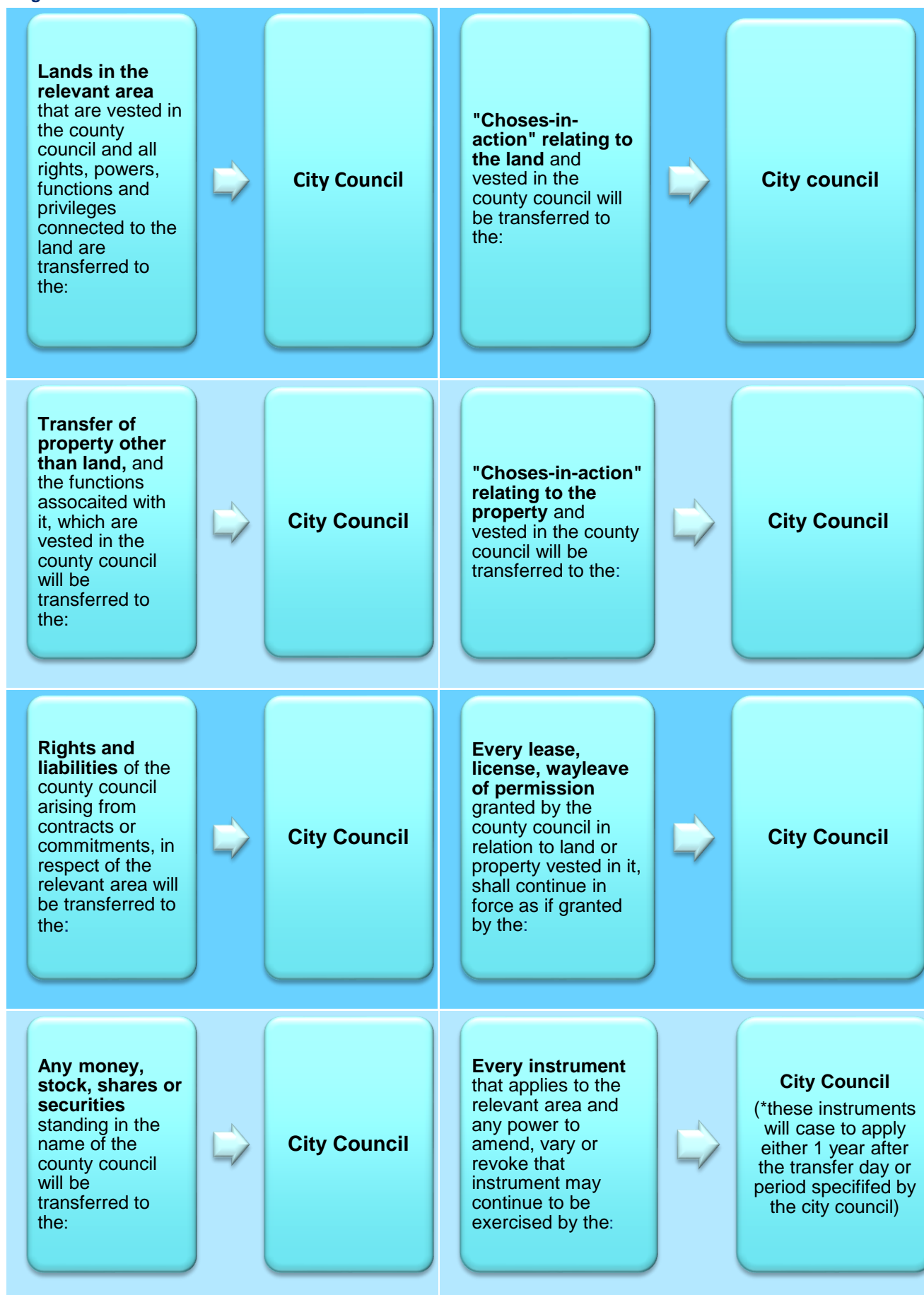
Proposed changes under the Bill

Figure 1 below provides a summary graphic of the main transfers of function from Cork County Council to Cork City Council in respect of the geographic areas that it is proposed by the Bill to be transferred from the administrative area of Cork County Council to Cork City Council.

¹ Department of the Taoiseach, 2016: 254. *Programme for Partnership Government*. Available [here](#).

² Ibid.

Figure 1: Transfer of Functions



Source: Compiled by the Oireachtas L&RS based on the *Local Government Bill 2018*

Summary of the Bill's provisions

Table 1 below summarises the provisions of the *Local Government Bill 2018*. Further discussion of key provisions of the Bill can be found in the Principal Provisions section of this Bill Digest.

Table 1: Provisions of the Local Government Bill 2018

Section	Title	Effect
Part 1	Preliminary and General	
1.	Short title, commencement and collective citation	<p>This section provides the short title of the Act. It also provides that the Act, or particular sections of the Act, will come into force by a commencement order of the Minister. The Minister may commence different sections of the Act at different times.</p> <p>It also provides that this Act and the <i>Local Government Acts 1925 to 2016</i> may be cited together as the <i>Local Government Acts 1925 to 2018</i>.</p> <p>This is a standard provision.</p>
2.	Interpretation	This section defines various terms used within the Act.
3.	Regulations	This section confers powers on the Minister to make regulations under the Act.
4.	Order under Section 34 of Act of 1991	This section provides for the application of section 34 of the <i>Local Government Act 1991</i> to the Cork boundary alteration, subject to certain modifications.
5.	Directions of Minister	This section confers a power on the Minister to issue directions to the City or County council in relation to the implementation of the boundary alteration.
6.	Expenses	<p>This section provides that any expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.</p> <p>This is a standard provision.</p>
Part 2	Alteration of City and County Boundaries	
7.	Transfer Day	This section provides that the Minister appoint a transfer day for the purposes of the Act.
8.	Alteration of boundary	This section provides that, on the transfer day, the relevant area (which is indicated on a map that has been laid before the Houses of the Oireachtas) will come under the control of Cork City Council.
9.	Transfer of land	This section provides that, on the transfer day, all lands in the relevant area, and all interests and

		<p>functions attached to such lands, shall pass from Cork County Council and be vested in Cork City Council.</p> <p>However, the Councils may make an agreement before the transfer day for the retention of any land in the relevant area by the County Council, or for the joint ownership of such land.</p>
10.	Transfer of property other than land	<p>This section provides that the councils may jointly designate property, other than land, that shall pass to the City Council on the transfer day.</p> <p>If the Councils fail to make such a designation, the Minister is empowered to designate the property as he or she sees fit.</p>
11.	Transfer of rights and liabilities, and continuation of leases, licences and permissions	<p>This section provides that all rights and liabilities of the County Council will transfer to the City Council on the transfer day. It also provides for the continuation in force of leases, licences, wayleaves and permissions granted by the County Council prior to the transfer day.</p>
12.	Provisions consequent upon the transfer of assets and liabilities to city council	<p>This section provides that anything commenced in relation to the relevant area by the County Council shall be completed by the City Council.</p> <p>It further provides that all instruments made by the County Council in relation to the relevant area shall continue in force after the transfer day as if they had been made by the City Council.</p>
13.	Transfer of staff	<p>This section provides for the preparation of staff plans and the transfer of certain staff from the County Council to the City Council consequent to the boundary alteration. The section provides that transferred staff shall not be subject to less favourable terms and conditions.</p>
14.	Preparation of maps	<p>This section requires the boundary surveyor to prepare four copies of (a) the deposited map of the relevant area, (b) the altered Cork City Council administrative area and (c) the altered Cork County Council administrative area.</p> <p>He or she must then deposit a sealed copy of each map at the offices of the surveyor, the Minister, and each of the councils.</p>
15.	Cork Boundary Alteration Implementation Oversight Committee	<p>This section establishes the Oversight Committee, which will oversee the implementation of the boundary alteration.</p>
16.	Implementation plan	<p>This section directs that the Oversight Committee make an implementation plan to facilitate the effective and efficient implementation of the Cork boundary alteration.</p>
17.	Financial settlement	<p>This section requires the two councils to reach a financial settlement agreement, within six months</p>

		<p>of the commencement of the section and before the transfer day.</p> <p>The financial settlement is to account for financial loss likely to be incurred by either council as a result of the Act.</p> <p>If the councils fail to reach an agreement, the Minister, after consultation with the oversight committee, is empowered to make a financial settlement instead.</p>
18.	Arrangements for performance of certain functions	<p>This section provides that the local authorities, in consultation with the oversight committee, come to an arrangement for the performance of certain functions related to the relevant area.</p> <p>This may involve performance by the county council of certain functions on behalf of the city council, joint performance of certain functions, or some other arrangement that the councils deem appropriate.</p> <p>If the councils fail to agree an arrangement, the Minister, after consultation with the Oversight Committee, is empowered to make an arrangement instead.</p>
19.	Compliance with Act	<p>This section directs the Cork local authorities to cooperate with one another in the performance of their functions under this Act. The section provides that they shall exchange information and consult with one another.</p> <p>The section also requires the Chief Executives of each council to prepare and submit a report to the oversight committee detailing the measures adopted to ensure compliance with this Act.</p> <p>On consideration of this report, the oversight committee may issue a notice to the Chief Executives specifying particular measures he or she must adopt to ensure compliance with the Act.</p>
Part 3 Other Consequential Provisions		
20.	Data sharing by Cork local authorities	<p>This section provides that the County Council provide such information to the City Council as is necessary for the performance of its functions in the relevant area.</p>
21.	Rating area for local financial year 2019	<p>This section provides that the relevant area remains part of the rating area of the County Council until 31 December 2019. The County Council's budget will also continue to apply for the rest of that year in the relevant area.</p> <p>The section also provides for the continuation of any maintenance and repair works adopted under</p>

		<p>s. 103A of the <i>Local Government Act 2001</i> in the relevant area before the transfer day.</p> <p>Subsection (4) provides that nothing in this section be taken to interfere with the power of the City Council to prepare a different rate of Local Property Tax in 2019 in preparation for the following year.</p>
22.	Elections to Cork local authorities in 2019	This section provides for the application of the register of electors with respect to the amended boundary. It provides that the new register for the City Council shall include the persons registered in the relevant area. It further provides that the new register for the County Council subtract those persons resident in the relevant area.
23.	Polling districts and polling places	This section provides for the creating of an interim polling district where a polling district is fragmented by the changing of the boundary.
24.	Development plans and local area plans relating to relevant area	This section provides that any development plans or local area plans relating to the relevant area put in place by the County Council shall continue in force until the City Council makes a replacement plan.
25.	Planning applications and development contribution schemes	<p>This section provides that the County Council will continue to be the planning authority in relation to any planning application made or planning permission granted before the transfer day in respect of land in the relevant area.</p> <p>However, the enforcement of planning decisions made before the transfer day shall become a matter for the city council, unless the County Council had already acted to enforce the planning decision.</p> <p>The section also provides that any development contribution scheme made by the City Council shall apply to the relevant area from the transfer day onwards.</p>
26.	Continuation of instruments applicable to the relevant area	This section provides that all rules, regulations and by-laws already applicable to the relevant area shall continue in force for one year after the transfer day, or such further period as the City Council may specify.
27.	Saver for certain acts done before transfer day	This section is a general saver provision to clarify that all acts and instruments done or made by the County Council shall continue to have force and effect in the relevant area following the transfer day as if they had been done or made by the City Council.
28.	Outstanding charges	This section provides that any charge in respect of the financial year in which the transfer day falls that

		is owed to the County Council shall, from the transfer day, continue to be owed to the County Council.
Part 4 Amendment of Enactments		
29.	Amendment of the Principal Act	This section provides for various technical amendments to the <i>Local Government Act 2001</i> . The detail of these amendments is set out in the Principal Provisions section of this Digest.
30.	Amendment of <i>Local Government Act 1991</i>	This section provides for a number of amendments to the <i>Local Government Act 1991</i> . In particular, the amendments stipulate that future boundary alterations can be altered by the Minister only where the local authorities concerned so agree. The detail of these amendments is set out in the Principal Provisions section of this Digest.
31.	Amendment of section 3 of <i>Valuation Act 2001</i>	This section provides for a technical amendment to the <i>Valuation Act 2001</i> . The detail of this amendment is set out in the Principal Provisions section of this Digest.
Part 5 Miscellaneous		
32.	Chief executive of Galway local authorities	This section inserts a new section 144A into the <i>Local Government Act 2001</i> . The new section provides for a single chief executive with dual responsibility for Galway City Council and Galway County Council. The Minister is empowered to appoint either the Chief Executive of Galway City Council or the Chief Executive of Galway County Council to this new position.
Schedule		The Schedule sets out the appointment, resignation, payment of expenses, and meetings and quorums requirements applicable to the Oversight Committee established by section 15.

Source: Compiled by Oireachtas L&RS from *Local Government Bill 2018*.

Introduction

The [Local Government Bill 2018](#) (hereafter “the Bill”) was published on the Oireachtas website on 25 July 2018. According to the Bill’s [Explanatory Memorandum](#), the broad purpose of the Bill is twofold, as follows:³

- “to provide for the transfer of the administrative area of Cork County Council to the administrative area of Cork City Council and for the implementation arrangements related thereto”;
- “to provide for a single chief executive position in respect of both Galway City and Galway County Councils to initiate administrative integration across those two local authorities”.

There was no press release from the Department of Housing, Planning and Local Government (DHPLG) accompanying publication of the Bill. However on 7 June 2018, Minister of State for Local Government and Electoral Reform, John Paul Phelan TD, stated - in the press release accompanying submission of the General Scheme of the Bill to Cabinet - the following:⁴

“that an expanded Cork City Council area offers the best solution, particularly in terms of the structure of local government and a strong focus on the needs and demands of the metropolitan area, including regeneration, while also recognising the specific service needs of rural areas.”

The press release also states that Government had decided in December 2017 to proceed with the extensions of the Cork City boundary as recommended by the [Cork Expert Advisory Group](#) and subsequently endorsed by the [Cork Oversight Group](#) which also recommended a revised boundary for Cork City in its December 2017 report.

On 6 June 2018, the Minister of State, referring to the presentation of the Report on Local Government structures in Cork and Galway, stated in respect of the proposed local government arrangements in Galway that:⁵

“establishing a new unified Galway authority...will maximise the potential of the region to maintain, secure and grow a sustainable economic base for the future. A unified council will provide a geographically balanced and integrated approach to economic development throughout Galway and further boost its vibrant cultural and artistic milieu”.

Principal themes

In exploring the Bill, the subsequent sections of this Digest discuss the following:

- Policy context and background;
- Principal provisions;
- Stakeholder and media commentary; and,
- Cost and implications.

³ Department of Housing, Planning and Local Government, 2018. *Explanatory Memorandum – Local Government Bill 2018*. Available [here](#).

⁴ MerrionStreet.ie, Irish Government News Service, 2018. “Minister Phelan announces Government recommendations on Local Government Arrangements in Cork”. Available [here](#).

⁵ Department of Housing, Planning and Local Government, 2018. “Minister Phelan announces government recommendations on Local Government Arrangements in Galway”. Available [here](#).

Further related Library & Research Service resources⁶**On this Bill:**

- L&RS [Bills Tracker page on the *Local Government Bill 2018*](#)

On previous Bills:

- L&RS Bills Digest: [Local Government Bill 2013](#)

Other related L&RS resources:

- Spotlight: [Local Government Reform](#)
- Spotlight: [Localism in Irish Politics and Local Government Reform](#)
- Spotlight: [Local Government Reform](#)
- L&RS also maintains an In Focus Page on the [Local and European Elections](#)

⁶ Please note that some of these sources are not available outside of the Houses of the Oireachtas ICT environment.

Policy context and background

Introduction

The Bill stems from a broader and ongoing process of local government reform. The specifics of this Bill originate from the commitment set out in the Government's [Programme for a Partnership Government](#) (PPG) for the Minister to prepare a report for Government and the Oireachtas "on potential measures to boost local government leadership and accountability".⁷ The PPG also includes a commitment to ensure that local government structures "strengthen local democracy".⁸

The commitments outlined in the PPG follow on from "[Putting people first: Action programme for effective local government](#)", 2012 (Putting People First) which is the current policy statement on local government reform and brought to fruition in part in the [Local Government Act 2014](#).⁹ In turn, Putting People First was also informed by the 2011 Report of the [Local Government Efficiency Review Group](#).

This part of the Digest examines the above documents in the broader context of local government reform including changes in structure, size and number of local authorities.

Policy issue: Local Government reform

Local Government in Ireland: structure, organisation and functions

Local government in Ireland primarily reflects the country's history and changing political priorities. As such, counties remain the predominant units of local government and were first set out under the [Local Government \(Ireland\) Act 1898](#).¹⁰

Following the 20th amendment to the Constitution, the role of local government is now formally recognised in the [Irish Constitution](#) under Article 28A which recognises local government as providing a forum for the democratic representation of communities and in exercising and performing powers conferred by law.¹¹

The [Local Government Act 2001](#) (extensively amended and updated by the [Local Government Reform Act 2014](#)) is the principal legislative code currently supporting the structures, powers, functions and duties of local government in Ireland.¹²

⁷ Department of the Taoiseach, 2016: 254. *Programme for Partnership Government*. Available [here](#).

⁸ Ibid.

⁹ Department of the Environment, Community and Local Government, 2012. *Putting people first: Action programme for effective local government*. Available [here](#).

¹⁰ Quinn, B. 2015. "Local government reform – Plus ça change, plus c'est la même chose?", *Administration*, Vol. 63, No. 2, pp 7-29.

¹¹ <https://www.housing.gov.ie/local-government/administration/local-government-administration>

¹² Ibid.

In addition to the 2001 Act, the operation of local authorities is also informed by a range of other legislation dealing with the specific services they provide e.g. housing, roads, planning, waste, etc.

Local authorities (the collective name referring to county-based local government units) are multipurpose bodies but have a narrower scope than local authorities internationally. In Ireland, the current functions revolve by and large around physical infrastructure, environmental issues and recreational facilities. Across local authorities, these functions are discharged through eight programmes, namely:^{13 14}

- A. Housing and building;
- B. Road transport and safety;
- C. Water supply and sewerage;
- D. Development Incentives and controls;
- E. Environmental protection;
- F. Recreation and amenity;
- G. Agriculture, education, health and welfare; and,
- H. Miscellaneous services.

There are currently 31 local authorities in Ireland. This number is comprised of 26 county councils, three city councils and two city and county councils. With the exception of the local authorities in the (administrative) counties of Dun Laoghaire, Fingal and South Dublin and the cities of Dublin, Cork and Galway, all counties and cities have been divided into municipal districts (currently 95 countrywide) with councillors representing simultaneously the municipal district and the local authority.¹⁵

The elected council is the policy making assembly of a local authority. The municipal district members act as a decision-making sub-assembly of the overall council in respect of their respective municipal district area. The day-to-day management of a local authority is carried out by the executive, i.e. the full-time officials led by the chief executive (formerly known as the “county manager”). One of the duties of the chief executive is to advise and assist the elected council in the exercise of its functions.¹⁶

While there has been some improvement in the last two decades, a number of authoritative studies on governmental structures in Ireland have highlighted the broad centralising tendencies of national government.¹⁷ The effect of this was to limit, relative to international practice, the functions

¹³ Quinn, 2015: 19; and, Boyle, R., Humphreys, P., O'Donnell, O., O'Riordan, J., and Timonen, V. 2003. *Changing local government: A review of the local government modernisation programme*. Dublin: Institute of Public Administration. Available [here](#).

¹⁴ See also appendix 1 which details the services and functions under each programme division for local authorities.

¹⁵ <https://www.housing.gov.ie/local-government/administration/local-government-administration>

¹⁶ <https://www.lgma.ie/en/irish-local-government/>

¹⁷ See for instance Chubb, B. 1992. *The government and politics of Ireland*. UK: Pearson Education, and, Lee, J.J., 1989. *Ireland 1912-1985: politics and society*. Cambridge: University Press.

and competencies of Irish local government.¹⁸ This is a central context in understandings of local government and efforts towards reform of local government in the Irish context.

Local government reform: structural and functional changes over the years

The [Local Government Act 1925](#) put in place the structures of local government that were relatively untouched until the first iterations, albeit minor, of reform in the 1970s. From 1925 until 1975, there were only minor reforms introduced including the abolition of rural district councils, reinforced powers for dissolution of local authorities, creation of a local appointments commission, introduction of a city and county management system, implementation of a code for local authority personnel and the institutionalisation of development plans for local authority areas.¹⁹

From the 1970s to 1985, whilst there were a number of commissioned reports and review groups that looked in part at local government, there few concerted efforts at local government reform.²⁰ In 1985, the Government issued a policy statement, [Reform of Local Government](#)²¹, which recommended devolution of certain functions to local government. As with earlier reform recommendations, the proposed reforms were not acted on.²²

In 1991, the Report of the Advisory Expert Committee on Local Government Reorganisation and Reform was published (commonly referred to as the '[Barrington Report](#)'). Quinn made the following observations on the reaction to the report:²³

“The ambitious report had the potential to transform subnational governance in Ireland, highlighting as it did the failings of the system and proposing measures to redress them. But as with other schemata for reform, the response was minimalist, selective, piecemeal and conservative”.

Nevertheless, the group’s recommendations in respect of the creation of eight regional authorities was implemented in 1994 as too was the recommendation to divide Dublin into four local authorities, namely: Dublin City, Dun Laoghaire-Rathdown, Fingal and South Dublin councils.

1996 saw publication of the [Better Local Government – A Programme for Change](#). Boyle et al (2003) argue that Better Local Government should be viewed in the context of the then Government’s *Strategic Management Initiative* for the broader public service including therefore local government.²⁴ *Better Local Government* was based on four principles:

- Enhancing local democracy and widening participation;

¹⁸ See Oireachtas Library and Research Service, 2012. *Spotlight – Local Government Reform*.

¹⁹ Quinn, *ibid*: 9.

²⁰ These included the [Public Services Organisation Review Group](#) report on public administration (Devlin Report); the White Paper on Local Government Reorganisation; Strengthening Local Government (McKinsey Report); More Local Government: A Programme for Development (Institute of Public Administration)

²¹ There is at present no online source for this document.

²² Quinn, *ibid*: 11.

²³ *Ibid*.

²⁴ Boyle et al, 2003: 29-30.

- Serving the customer better;
- Developing efficiency in local government; and,
- Providing proper resources to allow local government fulfil the role assigned to it.

In the context of the current Bill, *Better Local Government* proposed that county and city authorities would remain as the primary units of local government but it suggests taking account of co-operative effort between authorities, to encourage decentralisation to area level and address service delivery where boundaries exist. It also envisaged greater co-operation between city and counties.²⁵

On foot of *Better Local Government*, the second report of the [Devolution Commission](#) was published in 1997. The Devolution Commission, among other issues, recommended a wider role for local authorities in respect of specific functional areas to enhance all service delivery to individuals and communities at the local level. Thus the Commission envisaged that local authorities would be developed as multi purpose entities having relationships with a broad range of government departments and other state agencies and thus become the fulcrum for development within counties.

The [Local Government Act 1998](#) provided a new funding framework for local government. This included the development of new local government fund which was financed by two main sources: motor taxation and the central exchequer.

As noted above, in 1999, local government was given constitutional recognition following the passing of the twentieth amendment of the Constitution. The text inserted as Article 28(a) in the Constitution reads as follows:²⁶

“The State recognised the role of local government in providing a forum for the democratic representation of local communities, in exercising and performing at local level powers and functions conferred by law and in promoting by its initiatives the interests of such communities”

[Modernising Government – The Challenge of Local Government](#) was published in 2000.²⁷ This document reviews local government reform up to that point and outlines future challenges. The [Local Government Act 2001](#) consolidated the range of disparate legislation affecting local government²⁸ emphasising the policy-determining role of councillors while also providing for the following:²⁹

- The renaming of local authorities as county councils, city councils, town councils and in some cases borough councils;

²⁵ See Ibid

²⁶ Bunreacht na hÉireann, Article 28A.1

²⁷ There is at present no online source for this document.

²⁸ Quinn: 12

²⁹ Boyle et al, 2003.

- More flexible arrangements for joint service provision between local authorities;
- A formalised strategic management process in local authorities requiring a corporate plan to be produced in the lifetime of a council; and
- The establishment of an independent local government commission to deal with boundary changes and electoral reviews.

From 2003, politicians were no longer able to have national/local dual mandate. This altered the practice whereby following the 2002 elections, 138 of the 226 members elected to the Oireachtas were also members of local councils.³⁰

The government policy document on local government, [*Stronger Local Democracy – Options for Change*](#), was published in 2008. According to Quinlivan, this contained:³¹

“...some significant proposals, with a focus on stronger democratic processes and improving the balance of powers between management and elected representatives. Though largely a consultation document, [it] included a useful and well-framed discussion on the issue of introducing directly elected mayors to Ireland”

In addition, *Stronger Local Democracy* sought to:

- Strike the right balance of power between the executive and the elected council and, in this context, its proposed directly elected mayors;
- Secure proper representation for towns with significant increased populations and no elected council at sub-county level; and,
- Improve customer service.

A Bill to legislate for directly-elected mayors was published in 2010. A White Paper prepared based on [*Stronger Local Democracy*](#) was prepared in 2010 but was never published.³²

Table 2 below shows a timeline of the main policy developments in respect of the reform of local government over the past five decades.

Table 2: Timeline of policy initiatives on local government reform

1971	Local Government Reorganisation White Paper
1973	Local Government Discussion Document
1985	The Reform of Local Government Policy Statement
1991	Local Government Reorganisation and Reform – Report of Advisory Expert Committee
1991	Government Statement on Local Government Reform
1996	Towards Cohesive Local Government – Town and County
1996	Devolution Commission – Interim Report
1996	Better Local Government – A Programme For Change
1997	Devolution Commission – Final Report
2008	Green Paper, Stronger Local Democracy – Options for Change
2012	Putting People First: Action Programme for Effective Local Government

Source: Compiled by Oireachtas L&RS

³⁰ Quinn: 12.

³¹ Quinlivan, A. 2017. *Reforming local government: Must it always be democracy versus efficiency?* Administration, Vol. 65, No. 2. Available [here](#).

³² Quinn, ibid.

Recent local government reforms: Putting People First

According to Quinlivan, the financial crisis provided the initial context for local government policy in recent years. Key developments in this regards the *Report of the [Local Government Efficiency Review Group](#)* (2010)³³ and the reports of the *Local Government Efficiency Review Implementation Group* (2012, 2013) – culminating in *Putting People First* and the *Local Government Reform Act, 2014*.³⁴

The *Local Government Efficiency Review Group* (LGERG) issued its final report in 2010. It made 106 recommendations about how to reduce cost, achieve optimal efficiency and enhance service delivery at the local level. The Government of the day accepted the LGERG's recommendations in April 2011. The LGERG's recommendations were underlined by three guiding principles, namely:³⁵

- First principle - as a key role of local government is provide public services, it should be measured by performance rewarded for managing above the norm;
- Second principle - what is done best at county level should be done there, and what is done best at town level should be done there. On the basis of this principle, the LGERG recommended "co-operation between particular local authorities" be developed "on a jointly-administrative basis" to secure the rational and effective delivery of services. It also underpinned the recommendation that certain local authority areas be amalgamated.
- Third principle - local authorities, whether they or not they are running a publicly-funded activities in their areas, should have a lead role in overseeing or providing them.

One of the main topics during the General Election of 2011 was political reform, again influenced by the financial crisis beginning in 2008. The Programme for Government 2011 to 2016 committed to "a fundamental reorganisation of local government structures". That Programme for Government further outlined a number of measures in respect of local government reform:³⁶

- To re-balance power within local government in favour of elected representatives;
- To devolve certain powers from central government to local government;
- To create greater efficiencies and to save costs; and,
- To enhance ways for citizens to participate i.e. to devolve power to citizens.

This led in turn to the publication of *Putting People First: Action programme for effective local government* in 2012 by the then Department of the Environment, Community and Local Government. *Putting People First* has been described as "a comprehensive document which combined aspiration and ambition, and was championed by a minister determined to reform the system".³⁷

Putting People First aims to make "[l]ocal government...the main vehicle of governance and public service at local level – leading economic, social and community development, delivering efficient

³³ Quinn, *ibid*: 12, notes that this was a result of the *Report of the Special Group on Public Service Numbers and Expenditure Programmes*, 2009.

³⁴ Quinlivan, 2017: 111.

³⁵ Paraphrased from Oireachtas Library & Research Service, 2012. *Spotlight: Local Government Reform*. Available [here](#).

³⁶ *Ibid*.

³⁷ Quinn, *ibid*: 13

and good value services, and representing citizens and local communities effectively and accountably”.³⁸

It outlines a range of possible reforms to local government, before presenting an action programme of the reforms which the Government will implement. The actions fall under four themes:

- Reform to structures;
- Reforms to funding accountability and governance arrangements;
- Local government involvement in economic development and job creation; and
- Reforms to ensure efficiency in service delivery.

Putting People First's proposals on size and structure

Putting People First is based on the argument that the introduction of more rational, cohesive and modern structures is a prerequisite for other reforms, in particular for the devolution of decision making to the local level.

It proposed the following fundamental reforms:

- Town Councils abolished and Municipal Districts created.

The new municipal district councils (MDCs) will be generally based around principal towns and will cover the full territory of each local authority area (with the exception of Dublin). This introduces a sub-county structure for all parts of the country for the first time since the abolition of sub-county rural councils in the 1920s.

- County Councils devolve to MDCs

There will be no over-lap in functions of County Councils and MDCs as the former will devolve to the latter.

- Councillors have jurisdiction at the county and district levels.

Councillors will be simultaneously elected to the Municipal Districts and County Council. Within each county/city council there will be a certain number of representatives from each municipal district.³⁹

It is this dual-level jurisdiction which enables a reduction in the number of councillors from 1,627 to no more than 950.

- No MDCs in Dublin

Putting People First does not propose to create a lower tier of local government in Dublin. The appears to be best explained by the cost implications. Instead, it proposes to make provisions to enable councillors from each electoral area to perform reserved functions like those performed by councillors in municipal districts in other counties.⁴⁰

³⁸ Department of the Environment, Community and Local Government, 2012: iii. *Putting People First: Action programme for effective local government*. Dublin: Government of Ireland. Available [here](#).

³⁹ Department of the Environment, Community and Local Government, 2012: 54. *Putting People First: Action Programme for Effective Local Government*

⁴⁰ Ibid, 2012: 61-2.

- Fewer units at county level

At the county-level, the Action Programme confirms that the number of councils is reduced from 34 to 31 as a result of the amalgamation of councils in Limerick, Tipperary and Waterford. These amalgamations were already government policy and were recommended by the LGERG (2010).

The Action Programme indicates that it will not adopt ‘joint management’ arrangements like those proposed in the LGERG and found in the UK i.e. dual-county management on a permanent basis. On the other hand, the document does not rule out the future amalgamation of other local authorities.

While not explicitly included in its recommendations, the LGERG (2010, 63) suggested a number of councils which would be suitable for joint administration.⁴¹

Putting People First states that under “Criteria for determination of areas”, it states that the “configuration of districts will be influenced by a range of consideration, such as population distribution, overall membership constraints, distribution of towns, local identities, spatial coherence...”⁴²

With specific reference to Cork, *Putting People First* states:⁴³

“The need to recognise and define an appropriate metropolitan area is also clearly evident in the case of Cork, having regard to the very significant spill over of suburban development and population in the environs of Cork City located in the administrative area of Cork County Council and adjacent towns. For practical purposes, these areas of development form part of the de facto city, with obvious close linkage for a range of purposes – social, commercial, employment, transport and indeed, in terms of identity - with the urban centre that constitutes the administrative area of Cork City Council. More significantly perhaps, the fact that the administration of what is, in real terms, a largely continuous, or closely connected, urban area is divided between two entirely separate local authorities carries potential future risks, for example, with regard to development, spatial planning, and economic and social evolution, of the type which were identified in the reports of the local government committees in Limerick and Waterford. Such risks can be mitigated by close co-operation between the relevant authorities, which has been a feature of administration in Cork, but a more prudent long-term approach would be to bring the administrative configuration into line with the demographic and developmental reality.”

It goes on to state that in the case of Limerick and Waterford the “only” feasible solution to administrative fragmentation was local authority amalgamation, due in the main to issue of scale and resources. However, in respect of Cork it states:

“an alternative option would be available in the form of boundary adjustment to define an appropriate metropolitan area incorporating allowance for a suitable future development horizon. This is feasible in Cork because of the scale of the county in contrast with the position in Limerick and Waterford. Indeed, this would also have a secondary benefit of facilitating reduction in the significant representational imbalances that currently exist in Cork County and also configuration of more homogeneous municipal districts in the county. There would, accordingly, appear to be a good case in principle for considering a boundary

⁴¹ Mayo-Roscommon; Sligo-Leitrim; Cavan-Monaghan; Longford-Westmeath; Carlow-Kilkenny; Laois-Offaly; Galway City and County.

⁴² *Putting People First*, 2012: 59.

⁴³ *Ibid*: 86

alteration in Cork with a view to creating a wider Cork Metropolitan area. The initiative in this regard rests primarily with the local authorities.⁴⁴ It is envisaged that if suitable arrangements are not finalised within a maximum of 5 years, the power of ministerial initiative in the matter would be invoked.”

With specific reference to Galway, *Putting People First* states that while the issue of suburban spill-over (urban expansion into the administrative area of the County Council) has not happened to the degree seen elsewhere. This is due in part to the boundaries being defined in the 1980s to allow greater scope for development. As such, *Putting People First* views settlements in the administrative area of Galway County Council as being “closely linked to and influenced by the City”.⁴⁵ Moreover it states that, as in the case of Cork, “the option of defining an appropriate metropolitan area by means of boundary adjustments exists”.⁴⁶

Local Government Reform Act 2014

The [Local Government Reform Act 2014](#) is the most recent legislation in this area. On foot of *Putting People First*, the 2014 Act provides for a range of changes to the organisation and work of local authorities. Among other things, it provides for:⁴⁷

- 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 and community development boards; and,
- a range of changes to the functions carried out by local authorities.

The main changes in the Act in relation to the amalgamation and abolition of local authorities came into effect on 1 June 2014.

In respect of the Bill at hand, the 2014 Act implements the structural and territorial reform of Irish local government as proposed in *Putting People First*. Parts 2 and 3 provide for the establishment of the new municipal districts throughout the country with the exception of the four Dublin local authority areas and for the amalgamation of City and County Councils in Limerick and Waterford and the establishment of a single County Council in Tipperary.

Part 2 of the Act amends the [Local Government Act 2001](#) and gives legislative effect to the amalgamations of the local government areas (section 9), and establishment of single local authorities (section 13) of Limerick City and County Councils, Waterford City and County Councils and Tipperary North and Tipperary South County Councils. It provides for the establishment of a single local authority in each of these areas to be named: Limerick County and City Council,

⁴⁴ *Putting People First* (2012: footnote to 86) states in this regard: “A city or county council may, by resolution, propose a boundary alteration under section 29 of the Local Government Act, 1991. However, the Minister also has power under section 31 of that Act to initiate a boundary review.”

⁴⁵ *Ibid*: 87.

⁴⁶ *Ibid*.

⁴⁷ Paraphrased from Citizens Information Board, 2014. *Relate – Changes to local government and local development structures*. Available [here](#).

Waterford County and City Council and Tipperary County Council. Section 17 formally dissolves the existing City and County Councils. Part 4 provides for changes which have emerged as a result of the establishment of new structures and Part 5 provides for financial arrangements deemed necessary as a result of the new structure including the transitional arrangements for harmonising the rates in newly merged areas.

Assessment of recent local government reforms

With regard to the recent reforms of local government, Quinlivan (2017: 120) poses the question in his piece: “Is Irish local Government better than it was in 2008, before the financial crisis?” In response, Quinlivan cites Quinn (2015: 7)⁴⁸ who argues that the approach to the reforms has been reactive rather than proactive. He suggests a lack of clear and consistent philosophy underpinning local government reform and what changes have been made “represent a unique blend of innovation, incrementalism and entrenchment”. Quinlivan (2017: 121) also cites the Council of Europe’s Congress of Local Regional Authorities (2103) view on *Putting People First*: “although it praises decentralisation in spirit, does not appear to provide many concrete steps in that direction. Some of the actual steps proposed go in the opposite direction”.

With respect to the reduction in the number of local authorities, Quinlivan suggests that an even great distance has been created between the citizen and the local council. The author goes on to state:⁴⁹

“[t]he predictable rationale for the structural changes involved economies of scale and cost savings but the international research evidence suggests that large-scale authorities do not necessarily produce efficiencies and savings”.

In this context, Quinlivan makes direct reference to the subject of this Bill, local government amalgamations in Cork and Galway, he suggests that “[i]t may only be a matter of time before the smaller county councils are amalgamated to sustain the ‘big is beautiful’ narrative.”⁵⁰ The next section looks in more detail at the evidence around the merits and demerits of local government reorganisation, mergers and amalgamation.

Discussion of local authority amalgamation and mergers

As noted above, a distinguishing characteristic of local government in Ireland is the relatively limited range of functions undertaken by local authorities when compared to the international experience.⁵¹ Boyle among others has noted that Irish local government has relatively large population size and geographical area compared to many other OECD member states.

⁴⁸ Previously cited in this paper.

⁴⁹ Quinlivan, 2017: 121

⁵⁰ Ibid.

⁵¹ Boyle, Richard. 2016: 2. “Re-shaping Local Government: Overview of selected international experience with local government reorganisation, mergers, amalgamation and co-ordination”.

Nevertheless, according to Boyle, there is a general trend in OECD countries to reduce the number of local authorities; examples cited by Boyle include Finland, Denmark, Norway and Australia. In this context, Boyle suggests that the broad rationale for merger and amalgamations of local government include:⁵²

“...that it represents an effective method of enhancing the operational efficiency of local councils, improves their administrative and technical capacity, generates cost savings, strengthens strategic decision-making and fosters greater political power.”

Opponents of local government consolidations generally point out that they can be divisive in nature, that there is no empirical evidence supporting such consolidation, ambivalent evidence arising from case study research and the diminution of local democracy.⁵³

In addition to the trend of creating fewer local authorities through consolidation, there has also been a trend of increased cooperation and coordination between local authorities. Reviews of such collaboration suggest that it is not an easy or straightforward process, requires commitment and an ability to identify and overcome challenges.⁵⁴

As regards increasing the size of local authorities, Hansen showed in respect of Denmark that satisfaction decreases on the part of citizens as population size increases.⁵⁵

Dollery identified the five main policy lessons learned from amalgamation of local authorities:⁵⁶

- Entities designed for amalgamation must be carefully designed;
- Amalgamation proposals must meet minimum levels of community support;
- New amalgamated entities must be viable;
- Transaction costs of amalgamation must be minimised; and,
- Potential sources of conflict must be minimised.

The impact on the motivation and performance of staff working in local authorities that are the subject of consolidation, amalgamation or other forms of restructuring is also a key issue for consideration. A UK study found in this regard that performance deteriorated prior to the onset of structural changes. The issues identified included reduction in staff morale, loss of managerial expertise due to employee turnover and reduction in effective planning as the new organisation ‘finds its feet’. This study suggests that if performance is not to be disrupted due to such structural change, careful planning and phasing is essential.⁵⁷

⁵² Ibid: 4.

⁵³ Dollery and Kortt, 2013: 74, cite in *ibid*: 4.

⁵⁴ O'Donnell, 2012, Cited in *ibid*: 5

⁵⁵ Hansen, 2014. Cited in *ibid*: 6.

⁵⁶ Dollery, 2014. Cited in *ibid*: 7

⁵⁷ Andrews and Boyne, 2011. Cited in *ibid*: 7.

Amalgamation and mergers of local authorities are one of two strategies followed in OECD countries to re-shape local government. The other, not treated here, is the retention of smaller municipalities by strengthening their capacity.

For local authority amalgamation and mergers, the approach is posited on the belief that informal or voluntary co-operation between local authorities will not yield strong results and should therefore be formally achieved through coordination and boundary changes as deemed necessary. Moreover, integrated structures are required in order to achieve desired results.⁵⁸

Overall, the arguments in favour of amalgamation mainly relate to areas such as improvement in the strategic capacity of organisations, the limitations of shared services and co-operation between separate local authorities, and the opportunity to enhance the skill base of local authorities.

In his analysis of the relevant literature, Boyle concludes that there is little evidence of significant savings or economies of scale or performance improvement from mergers and amalgamations of local authorities. He notes that in the aftermath of the financial crisis, in the guise of the *Local Government Reform Act 2014* (building on the policy objectives set out in *Putting People First*), Ireland has undertaken consolidation of local government along the lines seen in other OECD states.⁵⁹ Among other things, Boyle suggests for the future:⁶⁰

“...pressures on a number of fronts, economic, environmental and social, are likely to give rise to further consideration of the most appropriate structures for local government in Ireland. The governance of metropolitan areas and their hinterlands and the role of city-regions in place shaping will be a growing feature of interest. So too will be the needs of rural areas and the best means of supporting broad rural development policies...the range of functions carried out by local government and the size of local authorities. The role of municipal districts and how they ‘bed-down’ in the system will also be a crucial element in determining thinking about future arrangements.”

Cork city and county council

In December 2017, the Government agreed to the revised boundary proposed by the [Cork Implementation Oversight Group](#), following on from the [report of the Expert Advisory Group](#), issued in April 2017. The Expert Advisory Group recommended the extension of Cork City area into the current administrative area of Cork County Council. This section provides an overview of the work of both groups and the detail of the proposal which are the subject of the Bill.

Expert Advisory Group on local government arrangements in Cork

In October 2016, the then Minister for Housing, Planning, Community and Local Government, Simon Coveney TD established an Expert Advisory Group to advise the Minister regarding relevant options in relation to future local government arrangements for Cork, building on

⁵⁸ Boyle, 2016: 9.

⁵⁹ Ibid: 18.

⁶⁰ Ibid

particularly the review carried out by the [Cork Local Government Review Committee](#) in September 2015. The [report of the Expert Advisory Group on local government arrangements in Cork](#) (Expert Advisory Group) was published in April 2017.

Based on the majority and minority position arising from the Cork Local Government Review Committee, the majority (three members) favouring amalgamation of Cork City and Cork County Council into a unitary Council and the minority (two members) favouring two separate local authorities for the city and county areas respectively, but with a substantive boundary extension to Cork city. In its report, the Expert Advisory Group noted that following publication of the report of the Cork Local Government Review Committee:⁶¹

“...Cork City Council adopted a resolution under section 140 of the Local Government Act 2001 directing its chief executive to commence judicial review proceedings over the recommendations of the [Cork Local Government Review Committee] in the courts.”

In its report, the Expert Advisory Group considered the following six options:

1. Maintain the status quo;
2. A unified authority for Cork city and county;
3. Boundary extension for Cork City to include developed areas in the north and south environs of the current city;
4. Boundary extension to include Cork city and suburbs defined by the CSO;
5. Boundary extension to include the ‘Cork Metropolitan Area’; and,
6. Boundary extension to include Metropolitan Cork as defined in the Cork Area Strategic Plan (CASP).⁶²

In assessing the options, the Expert Advisory Group utilised the following criteria to inform its deliberations:

- Cork as the engine of development and counterweight for Dublin;
- A unified voice for Cork;
- Effective planning and delivery of development and infrastructure;
- Providing for differences between metropolitan and rural areas;
- Financial viability and sustainability;
- Capacity to maintain, improve, and expand services into the future;
- Clear and readily understandable governance;
- Effective local democratic representation, subsidiarity and accountable leadership;
- Potential for efficiency savings and improved value for money; and,
- Cost and complexity of transition from existing structures.

Its conclusion for each are set out in table 3 below:

⁶¹ 2017:18

⁶² For more detail on CASP, see [here](#).

Table 3: Expert advisory group on options for boundary changes in respect of Cork local authorities

Criterion	Option 1 <i>Maintain the status quo</i>	Option 2 <i>A unified authority for Cork city and county</i>	Option 3 <i>Boundary extension for Cork City to include developed areas in the north and south environs of the current city</i>	Option 4 <i>Boundary extension to include Cork city and suburbs defined by the CSO</i>	Option 5 <i>Boundary extension to include the 'Cork Metropolitan Area'</i>	Option 6 <i>Boundary extension to include Metropolitan Cork as defined in CASP</i>
Cork as the engine of development and counterweight for Dublin	✗	✗	✗	✓	✓	✓
A unified voice for Cork	✗	✓	✗	✓	✓	✓
Effective planning and delivery of development and infrastructure;	✗	✓	✗	✓	✓	✓
Providing for differences between metropolitan and rural areas	✗	✗	✗	✓	✓	✗
Financial viability and sustainability	✗	✓	✗	✗	✗	✗
Capacity to maintain, improve, and expand services into the future	✗	✓	✗	✓	✓	✗
Clear and readily understandable governance	=	✗	=	✓	✓	✓
Effective local democratic representation, subsidiarity and accountable leadership	=	✗	=	✓	✓	✓
Potential for efficiency savings and improved value for money	=	=	✗	✓	✓	✗
Cost and complexity of transition from existing structures	✓	✗	✗	✗	✗	✗
Overall	✗	✗	✗	✓	✓	✗

Source: Cork Local Government Review Committee, 2017. [The report of the Expert Advisory Group on local government arrangements in Cork.](#)

Conclusions and Recommendations of the Expert Advisory Group

In concluding its report, the Expert Advisory Group stated that Cork would be best served by retaining the City Council, focusing on the City and its hinterland, and the County Council focused on the needs of county towns and rural areas. Part of the rationale here was also to retain the City Council as a focus of investment for the region and also to act as a counterweight to development in and around Dublin.⁶³

It notes also that the National Planning Framework offered an opportunity for Cork to build on its current assets and to develop its role as the State's southern capital.

Overall, the Group concluded that:⁶⁴

“...the current arrangements are unsustainable and propose an extension of the City Council boundary to increase the population of the City area to some 215,000 (based on Census 2011 figures) and approximately 225,000 based on 2016 Census figures. The precise boundary should be based on physical, social and natural borders, reflecting, for example, local communities, communities of interest, townlands and infrastructure. This will allow the city to consolidate its position and to grow and develop its full potential. It should also allow for a more cohesive and coherent planning approach to be taken towards the city and its hinterland.”

Before outlining its recommendations, the Expert Group noted that extending the boundary of the City Council would be challenging and would likely involve considerable further work to identify assets and liabilities, facilitate the transfer of staff and establish new structures. They noted also that transitional arrangements would be necessary to ensure the continuity of services such as housing, planning, and environmental protection. In cognisance of these and other challenges, the Group recommended that an Implementation Oversight Body be established.⁶⁵

The recommendations of the Expert Advisory Group are set out in table 4 below:

Table 4: Recommendations of Expert Advisory Group

No.	Topic	Detail
1	Boundary	The boundary of Cork City Council should be extended to include Ballincollig, Carrigohane, Blarney, Glanmire, Carrigtwohill, and Cork airport (but not include Passage West, Monkstown, Ringaskiddy, Carrigaline or rural parts of the City's hinterland.)
2	County Council	The County Council would remain one of the largest in the State and should focus on the County's towns, villages, rural and harbour area(s).
3	Economic development and planning	A Cork Economic Development and Planning Board (CEDPB) should be established to present a unified voice on strategic economic development, housing and infrastructure issues affecting the wider Cork area.
4	Co-operation	In addition to the CEDPB, other areas of cooperation between the two local authorities should be strengthened and developed.
5	City to County Council	A payment should be made by the City Council to the County Council

⁶³ 2017: 101

⁶⁴ Ibid 2017: 101-102

⁶⁵ Ibid: 101-107

	transfer of finance	in recognition of the financial adjustment arising from the boundary change.
6	Mayors	The Lord Mayor (of the City area) and County Mayor should continue to be elected by their respective Council but for a five year term with additional responsibilities.
7	Councillors	The number of Councillors in each local authority should be revised to reflect a better balance of representation.
8	Local government powers	An exercise should take place to identify additional powers and functions that should be devolved to local government in Cork.
9	Funding rural development	Rural development funding should be concentrated on structurally weaker rural areas within County Cork rather than in rural areas in close proximity to the City.
10	Municipal districts	The municipal district structures within Cork County Council should be revised to eliminate anomalies arising from the revised Cork City Council area.
11	City council	The expanded Cork City Council should move to an area based approach to decision-making, service provision and operations.
12	Local Elections 2019	The recommendations should be implemented so that members of the new local government structures can take office for the 2019 (scheduled) local elections.
13	Implementation	An Implementation Oversight Body should be established to progress the recommendations of the Expert Group.

Source: Compiled by the Oireachtas L&RS based on the *Report of the Expert Advisory Groups on local government arrangements in Cork*. 2017: 105-107.

Cork Local Government Implementation Oversight Group

In July 2017, the Minister for Housing, Planning and Local Government, Eoghan Murphy TD, announced the establishment of the Cork Local Government Implementation Oversight Group (IOG). The role of the Implementation Oversight Group (IOG) is to oversee the arrangements for the alteration of the boundary between the respective areas of Cork City Council and Cork County Council based on a detailed implementation plan to be completed by the IOG in October 2017.⁶⁶

The IOG undertook detailed and intensive discussions with the Chief Executives and Councillors of both Cork County and Cork City Councils for the purposes of determining an extended boundary for Cork City that “would be appropriate for the future development of the City and would also protect the potential of the County Council to serve its population on the future”.⁶⁷

Proposal for delineation of extended boundary of Cork City

The IOG proposed a boundary which would account for a population of approximately 205,000 in Cork City (CSO, Census 2016). This extended boundary it stated “could accommodate a future population of 324,000 by 2040 as targeted in the Draft National Planning Framework (NPF) and taking into account that the Draft NPF envisaged that 50% of the additional population would be accommodated on brownfield or infill sites within the existing Cork City built up area”.⁶⁸

⁶⁶ Cork Local Government IOG, 2017:1. [Cork Local Government Implementation Oversight Group: Outline implementation plan for boundary alteration](#).

⁶⁷ Ibid: 7.

⁶⁸ Cork Local Government IOG, 2017:1. Proposal for delineation of extended boundary of Cork City.

In the IOG's report, the proposed boundary follows generally the boundary of the City and suburbs shown by the CSO but excludes areas east of the M8 motorway and settlements shown by the CSO as part of the suburbs i.e. Ovens and Killumney. It extends to include all of the zoned airport area whereas the CSO boundary includes only part of the zoned airport areas. In addition, it extends further north above Glanmire to the west of the M8. It includes Tower and Blarney but excludes the Monard Strategic Development Zone.

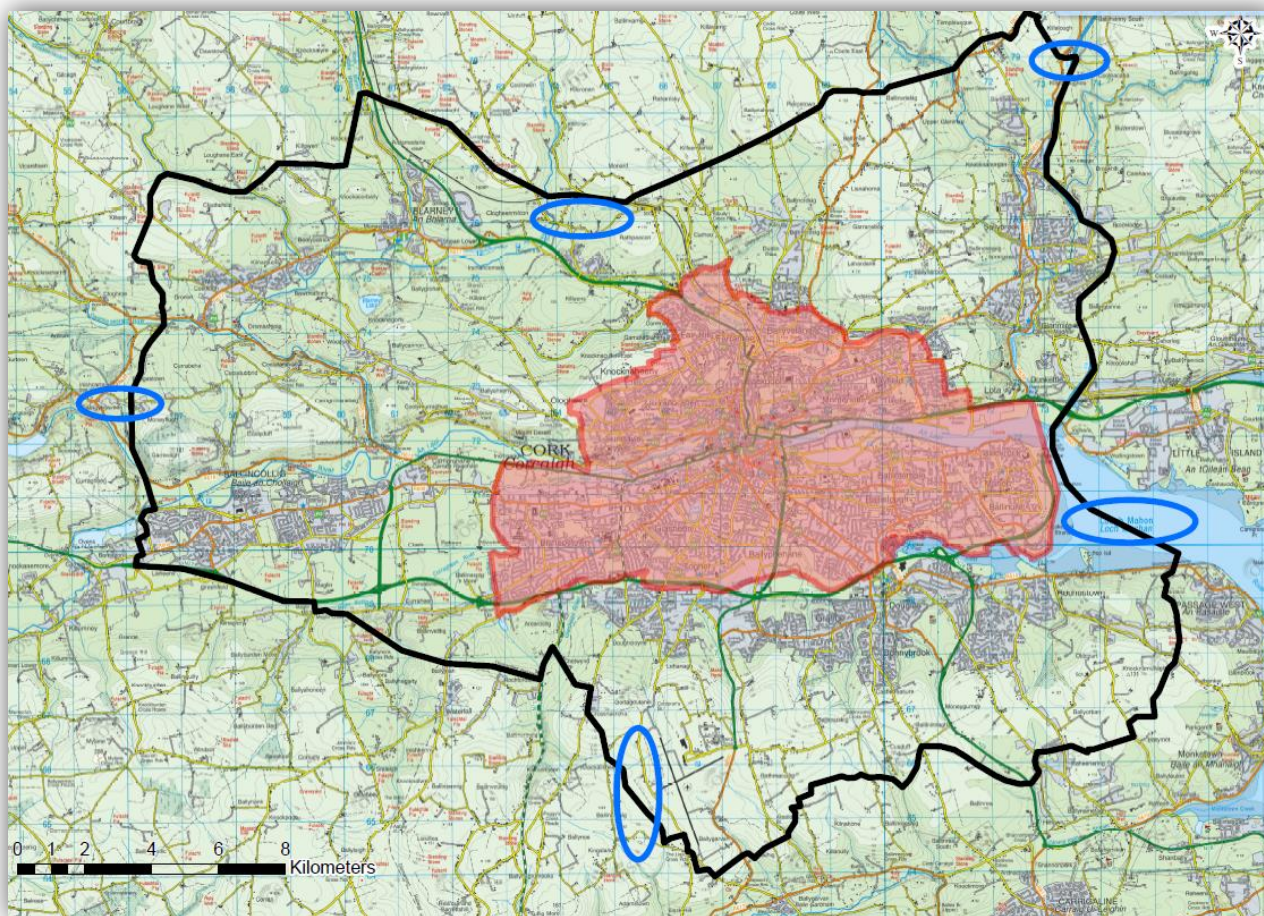
More detail on the boundary recommendations of the IOG in respect of specific areas is set out in table 5 below.

Table 5: IOG Main Boundary recommendations

Area	Detail
Ballincollig	Proposed to be included in the City as a metropolitan town. The IOG note that Ballincollig "sees itself as a distinct community with its own identity. It can continue to thrive within an appropriate new city local government structure". It also proposed the inclusion of the southern suburbs and all zoned land at Cork Airport.
Blarney and Tower	Noted by the IOG as sizeable settlement with circa 6,000 population and 'strong links to the City' including a largely suburban character. The IOG stated that the inclusion of these areas "will contribute significantly to achieving the critical population mass which is seen as important for the City."
Glanmire	Glanmire is characterised as the "developed area to the North...[and a] growing suburb". It also states that Glanmire is within the CSO and M8 physical boundary.
Little Island	Little Island is referred to as a "substantial mixed commercial/industrial/business district located to the east of the M8 motorway/Dunkettle Interchange and on the upper harbour." The IOG stated that "despite its proximity to the City, it does not have a significant level of population." And, "[i]n view of this and its scale and degree of integration within the commercial life of the County, the IOG accepts, on balance that Little Island should remain in the County". Furthermore, the IOG note that "the additional transfer of Little Island may constitute a high risk of undue disruption to both authorities. There is also an argument that it would be consistent with the position taken in relation to the unity of the harbour area referred to below."
Carrigtwohill	In its report, the IOG characterises Carrigtwohill as "a town with its own identity and while part of the Cork Metropolitan Area would not be generally identified as part of Cork City. Its workforce is less dependent on the City than the other settlements being included." However, it states that "[g]iven the limited extent of the new City boundary, it is critical that the spatial planning of the contiguous area, the satellite towns and the rural area outside the City boundary, but within the Cork Metropolitan Area"
Cork Harbour	IOG states that "in determining the City boundary that Cork Harbour and its associated settlements should remain within Cork County Council functional area." The rationale given is that 1. Cork County Council has prepared a Cork Harbour Study and is currently updating it using an integrated coastal zone management approach; 2. The NPF considers that Tier 1 ports (Cork is one) should be addressed in tandem with the relevant Regional Spatial and Economic Strategy and any subsequent metropolitan area or city/county development plan process. However, it suggests that the harbour area should remain within the Cork Metropolitan and treated in the proposed future Cork Metropolitan Area Plan.

Source: Compiled by the Oireachtas L&RS based on the *Cork Local Government IOG: Proposal for delineation of extended boundary of Cork City*. December 2017. Available [here](#).

Figure 2: Cork City boundary extension map – IOG Recommendation.



Source: [Cork Local Government Implementation Oversight Group: Proposal for delineation of extended boundary of Cork City](#).

Note: According to the IOG report, "[t]he blue ovals indicate areas which may require minor technical adjustments under the supervision of the IOG".⁶⁹

Figure 1 above shows the map, taken from the IOG's report, showing their suggested boundary changes extending the administrative area of Cork City Council.

Outline of implementation plan for boundary alteration

From its October 2017 report, the Cork IOG outlined a number of areas that were critical, in their assessment, for the successful boundary extension recommendation. These include:

- Devising an implementation plan;
- Define a new boundary;
- Undertaking financial analysis;
- Developing and implementing a City Council and County Council joint communication strategy;
- Defining new electoral areas;
- Defining new municipal districts and city districts;
- Devising and implementing new service delivery models;
- New organisational structures;

⁶⁹ Ibid, 2017:15

- ICT planning and migration; and ,
- Workforce planning.

Figure 3 shows the IOG's suggested implementation plan outlining the time frame of the key actions to be met to ensure the boundary extension is in place for the new Council following the May 2019 local government elections.

Figure 3: Cork City boundary extension - implementation plan time frame and key actions

Action	2017				2018												2019					
	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J
Outline Implementation Plan																						
Define boundary																						
Financial analysis																						
Joint Communications Strategy																						
Detailed Implementation Plan																						
Define new Electoral Areas																						
Define new Municipal Districts and City Districts																						
New Service Delivery Models																						
New Organisational Structure																						
ICT Planning and Migration																						
Workforce Planning																						

Source: [Cork Local Government Implementation Oversight Group: Outline implementation plan for boundary alteration](#).

Galway city and county council

This section presents material in respect of proposed local government changes in Galway. It should be noted, that given the Bill only deals with the position of Chief Executive of the local authorities, the section does not treat the proposed changes in local government arrangements in Galway in as broad a manner as that seen in above in respect of Cork City and County.

Galway Local Government Committee

The Galway Local Government Committee (LGC) was established in January 2015 by the then Minister for Environment, Community and Local Government, Alan Kelly TD. In a manner similar to Cork, the Committee was asked to carry out an objective assessment of local government arrangements in Galway City and County with a view to making recommendations on:⁷⁰

- Whether the boundary of Galway City should be altered including making recommendations on such alterations; and,
- Whether Galway City Council and Galway County Council should be unified.

The Galway LGC ultimately decided against recommending the extension of the City boundary to encompass the industrial areas on the periphery of the City boundary and located in the County Council administrative area. The rationale was that such a move would be detrimental to the County. In its deliberations, the LGC concluded:⁷¹

“that radically enhancing shared services offered a number of benefits for the citizens of Galway City and County, but as with the boundary extension, these benefits can only be achieved via alternative structures”

The LGC continued in its report to recommend:⁷²

“the establishment of a new, unified Local Authority to be known as the Greater Galway Authority (GGA) would maximise the potential of the region to maintain, secure and grow a sustainable economic base into the future... . A unified authority would eliminate duplication, free up financial and human resources and enable the recruitment of expertise, thus making the authority fit for purpose in an evolving era of new skills and technology”

To begin this process, the Galway LGC recommended that an Expert Advisory Group be established and “the process of transition should be managed on a day-to-day basis by a Director of Transition and Change Management.”⁷³

Expert Advisory Group on Local Government Arrangements in Galway

In December 2016, the Minister for the Housing, Planning, Community and Local Government established an Expert Advisory Group (EAG) to carry out further detailed examination and planning arising from the report of the Galway Local Government Review Committee in relation to future local government arrangements for Galway.

⁷⁰ Galway Local Government Committee, 2015: 7. [Local Government Arrangements in Galway: The Report of the Galway Local Government Committee.](#)

⁷¹ Ibid: 10.

⁷² Ibid

⁷³ Ibid: 11-12

The EAG produced its first report in June 2017. Among its findings, the EAG concluded that the cost / finance implications of creating a unified Galway local authority would “be broadly cost neutral” and that no “significant financial savings were identified”.⁷⁴ Overall, the EAG found that establishment of “Greater Galway Authority” was technically and administratively feasible.⁷⁵ Finally, in its June 2017 report, the EAG noted that in its next phase it would turn to look at the governance and associated arrangements associated with the creation of one local authority in the County while acknowledging the “complexity of the task of devising the political and administrative structures”.⁷⁶

The Galway EAG published its second report in April 2018. That report made four recommendations:⁷⁷

1. The EAG endorses and confirms the recommendation of the Galway Local Government Review Committee on the amalgamation of Galway City and Galway County Council;
2. That the existing deficiencies in respect of both human and financial resources be resolved as an essential prerequisite to the amalgamation process;
3. That the elections to the two existing local authorities, as currently constituted, should take place in May 2019 as scheduled; and of particular note in the context of the Bill’s proposals,
4. That a Ministerial decision be taken on the recommendations to-date and that if a decision is taken, the decision should be legislated for as a matter of urgency to give certainty to the remaining work to be completed.

On foot of the report of the EAG, the Department of Housing, Planning and Local Government issued a press release in June 2018 announcing recommendations on local government arrangements in Galway. In the press release, the rationale for the creation of the one chief executive position for Galway’s local authorities is provided:⁷⁸

“the Minister will shortly publish a legislative provision for the appointment of a single chief executive with dual responsibility for Galway City and County Councils, who will be able to initiate administrative integration across the two local authorities arising from a recent Expert Advisory Group report.”

This rationale is reflected also in the Explanatory Memorandum accompanying the Bill, which states its purpose as providing “for a single chief executive with dual responsibility for Galway City Council and Galway County Council”.⁷⁹

⁷⁴ [Expert Advisory Group on local government arrangements in Galway](#), 2017 : 5. Interim Report.

⁷⁵ Ibid: 8.

⁷⁶ Ibid: 9.

⁷⁷ Paraphrased by the Oireachtas L&RS from the [2nd Interim Report of the Expert Advisory Group on Local Government Arrangements in Galway](#). April 2018.

⁷⁸ [Minister Phelan announces government recommendations on Local Government Arrangements in Galway](#).

Department of Housing, Planning and Local Government Press Release, 06 Jun 2018.

⁷⁹ Department of Housing, Planning and Local Government, 2018. [Explanatory Memorandum – Local Government Bill 2018](#).

Principal Provisions

The *Local Government Bill 2018* consists of 32 sections and is divided into five parts and a Schedule. A reproduction of the map provided with the Bill is set out in appendix 1 below. This part of the Digest is structured around the principal themes of the Bill:

- Preliminary and General;
- The Transfer Process;
- Planning and Preparation for the Transfer;
- Restructuring in terms of elections, secondary legislation and ‘planning and development’;
- Consequential legislative amendments.

Please note that not every section of the Bill is discussed in detail but a summary of each provision is contained in the table of provisions.

Preliminary and General: Part 1

Section 3 of the Bill empowers the Minister to make regulations by way of statutory instrument for the purpose of the Act. The regulations may contain provisions which are “*incidental, supplementary [or] consequential*” to the Act.

Of note in section 3 is subsection (3) which proposes to empower the Minister, where a difficulty arises in bringing a provision of the Act into operation, to “***modify any provision of this Act so far as may be necessary or expedient for carrying such provision into effect***”. The subsection further specifies that such an order can only be made within three years of the coming into operation of the relevant section.

Where the Minister proposes making any such regulation, a draft must be laid before each House of the Oireachtas and a resolution approving the draft passed by both before the Minister can proceed.

Henry VIII clauses

Provisions that seek to empower a delegated lawmaker to amend primary legislation, are sometimes referred to as **Henry VIII clauses**. Henry VIII clauses are generally said to be an unconstitutional delegation of the Oireachtas’ “sole and exclusive” power to legislate under [Article 15 of the Constitution](#). In *Mulcreavy v Minister for the Environment*, Keane CJ stated that:⁸⁰

“...delegated legislation cannot make, repeal or amend any law and that, to the extent that the parent Act purports to confer such a power, it will be invalid having regard to the provisions of the Constitution.”

The constitutional position is not, however, quite as absolute as Keane CJ suggests. For instance, pursuant to [section 3](#) of the [European Communities Act 1972](#), Ministers are empowered to amend

⁸⁰ [\[2004\] 1 I.L.R.M. 419](#), at pp. 434,435.

primary legislation by way of a statutory instrument where necessary to give effect to an obligation under EU law. It is also relatively commonplace for Acts to confer a power to add schedules to a parent Act.⁸¹ Hogan and Morgan also note “*a certain judicial reluctance to interfere with Henry VIII orders*”.⁸² It has also been suggested that amendments to primary legislation that are formalistic in nature and within the principles and policies of the parent Act, should not attract constitutional proscription.⁸³

While there are a number of Acts of the Oireachtas that use similar language to this provision; notably, [section 2](#) of the [Local Government Reform Act 2014](#) and [section 3](#) of the [Court of Appeal Act 2014](#), similar provisions have been removed from legislation on the basis of concerns about adherence to legal best practice. The [Financial Emergency Measures in the Public Interest Act 2015](#) amended a provision in the [Courts \(Supplemental Provisions\) Act 1961](#) that, in effect, gave the Government the power to amend primary legislation.⁸⁴ The Minister for Public Expenditure and Reform noted in the Dáil chamber that this had been done on the advice of the Attorney General to ensure that “*best legal practice is adhered to*”.⁸⁵

The Transfer Process: Part 2

Transfer of functions attached to the land

Section 9 sets out the varying powers and functions that are attached with the transfer of land situated in the relevant area. After the designated transfer day, the City Council will be vested with new powers and functions that are automatically connected to the land. For example:

- All the **rights, powers and privileges** connected to the land shall be transferred to the City Council, without any conveyance or assignment, but subject to all trusts and equities affecting the land;
- ‘**Choses-in-action**’⁸⁶ will be transferred and vested in the City Council on transfer day. From that day the City Council may sue, recover or enforce choses-in-action in its own name;
- The **functions** of the Council that are attached to the land will be transferred to the City Council.

Agreements may be drawn up between the city and county council that will allow for flexibility around transfer of land. Including:

⁸¹ This point is made by Dodd, *Statutory Interpretation in Ireland* (Tottel, 2008) p. 348.

⁸² Hogan and Morgan, *Administrative Law in Ireland* (4th ed. Round Hall, 2010) p. 17.

⁸³ Maddox, ‘The Legality of Henry VIII Clauses’ [2004]9(4) *Bar Review* 188.

⁸⁴ Section 46 of the 1961 Act sets the remuneration of judges. Subsection (9) of that section, inserted by later legislation, gave the Government the power, notwithstanding the preceding sections, to increase the remuneration of judges as it saw fit. This, in effect, created a situation in which the Government could alter the primary legislation determining the remuneration of judges. Subsection (9) was substituted for a new provision by the 2015 Act. This new provision now directs that the Government will set the remuneration of the judges, without the need for reference to primary legislation.

⁸⁵ <https://www.oireachtas.ie/en/debates/debate/dail/2015-10-20/34/>

⁸⁶ A **chose in action** is a right of proceeding in law to procure the payment of a sum of money or to recover pecuniary damages for a wrong inflicted or the non-performance of a contract. A *legal chose in action* is a right of action which could be enforced in a court of law eg debts. Definition taken from Murdoch’s legal dictionary <http://www.milc.ie/NXT/gateway.dll?f=templates&fn=default.htm>.

- Continued vesting in the land, post transfer;
- Joint ownership;
- Co-use of the land by both city and county councils.

Transfer of property other than land

Section 10 allows the city and county councils to jointly designate property, other than land, for transfer. This includes the functions connected with the property, and the right to sue, recover or enforce choses-in-action. Where the city and county councils do not make a designation of property, the Minister, following consultation with the Implementation Oversight Committee (discussed below), can make an order of designation on a specific date known as the “**property vesting day**”. On, or after, the property vesting day the receiving Council will assume the functions and powers attached to that property.

Transfer of other matters

Section 11 allows for the transfer of all **rights and liabilities** of the County Council, relating to the relevant area, to be transferred to the City council on either the transfer day or property vesting day. These may be rights and liabilities arising from contracts and commitments which the City Council can be sued on, recovered or enforced by or against the city.

Every lease, license, wayleave⁸⁷ or permission granted by the County Council before the transfer day/property vesting day shall continue in force as if granted by the City Council.

Actions taken post-transfer

Under **section 12**, once the transfer has taken place a number of issues will need to be addressed, for example:

- Any work commenced but not completed prior to the transfer will have to be taken over by the City Council;
- Any references in official documentation or legislation to the County Council must be construed as references to the City Council;
- Any money, stocks or securities transferred will be transferred into the name of the receiving Council.

Planning and Preparation for the Transfer Process: Part 2 and 3

Before the transfer begins provisions need to be made to ensure there is structure and clarity to the process. These include, planning for the transfer of staff, the preparation of maps outlining the altered Council boundaries and the establishment of an Oversight Committee which must devise an “Implementation Plan” setting out the necessary steps for the effective implementation of the Cork boundary alteration.

⁸⁷ **Wayleave** is a right of way over or through land (eg for the carriage of goods, to carry gas in pipes; to carry wires on pylons, etc), created by express grant, by [reservation](#) or by statute. Definition taken from Murdoch’s legal dictionary: <http://www.milc.ie/NXT/gateway.dll?f=templates&fn=default.htm>.

Transfer of staff

Section 13 lays out the planning and provisions necessary for the **transfer of staff** between the city and county councils. The city and county councils will be required to provide for and ensure the following:

- Prepare a “**staff transfer plan**” which should set out their staffing requirements;
- The chief executives of both city and county council should **jointly designate** the members of staff they consider appropriate for the City Council;
- A five month **notification period** is required for staff before the designation takes place;
- Staff have the right to make **representations** in relation to the proposed designation;
- Staff should not be subjected to less beneficial **conditions** as a result of the designation, in terms of remuneration or conditions of employment;
- **Previous service**, before the designation will be taken into consideration for issues such as redundancy, unfair dismissals and terms of employment.

Preparation of maps

Section 14 requires that a boundary surveyor⁸⁸ prepares four copies of the altered maps covering the new administrative areas for both the city and county council. A copy of each map needs to be deposited at the following locations:

- The boundary surveyor’s office;
- The Minister’s office;
- The City Council office;
- The County Council office.

The maps should be made publically accessible for inspection and both the city and county councils should publish the maps on their website.

***Membership** of the Oversight Committee is set out in the Schedule of the Act. It outlines how members are to be appointed, the removal of members, disqualification conditions and the decision making procedure of the Committee*

Oversight Committee and the Implementation Plan

Under **section 15** of the Bill a Committee must be established, known as the “**Cork Boundary Alteration Implementation Oversight Committee**”. The Oversight Committee is responsible for drafting an ‘Implementation Plan’ which identifies the measures the Cork local authorities need to take in order to ensure the efficient implementation of the boundary alteration. Some of the issues which must be considered in the Implementation Plan are set out in **section 16**:

⁸⁸ The Chief Boundary Surveyor is a statutory officer appointed by the Minister for Finance pursuant to Section 1 of the, [Boundary Survey \(Ireland\) Act, 1854](#). The role of the Chief Boundary Surveyor is to fix maritime and internal boundaries for public purposes in accordance with the provisions of the Boundary Survey (Ireland) Acts, 1854, 1857 and 1859. Sourced from [Dáil Parliamentary Questions 07 July 2010](#).

- Arrangements that will ensure delivery of services to members of the public, residing in the relevant area, is maintained;
- Arrangements to ensure that the impact of the boundary alteration, on members of the public living in the relevant area, is minimal;
- Arrangements relating to financial matters, administrative and organisational matters and the performance of functions by each Cork local authority;
- Principles and methods for the calculation of any loss of income as a result of a financial settlement, the calculation of contributions to be paid on foot of that settlement and the valuation of property for the purposes of a financial settlement.

Under **section 18** of the Bill the Cork local authorities and the Oversight Committee will jointly make arrangements for the performance of functions by either the city or county councils individually or jointly. It also sets out the power of the Minister, in consultation with the Oversight Committee, to make such arrangements where the local authorities are unable to do so. It is the responsibility of the Oversight Committee to deal with any disputes in relation to the arrangement.

Section 19 requires the Cork local authorities to work co-operatively to ensure compliance with the Act. This will require the chief executives of both authorities to exchange information, consult and co-ordinate with each-other on arrangements specified in the implementation plan and the performance of their functions. As part of this responsibility the chief executives shall submit monthly reports to the Oversight Committee (until 31 December 2020) in relation to the measures adopted to ensure compliance with the Act.

Financial planning

Section 17 requires that, before the transfer day, the Cork local authorities need to develop a “**financial settlement**”. The purpose of the financial settlement is to make provision for anticipated financial losses, for example:

- The determination of financial losses likely to be incurred by the city or county councils as a result of the boundary alterations;
- Liabilities incurred by the Councils as a result of the alteration;
- Loss of income or incomes accrued by the Councils;
- Monies paid for the purchase of land;
- Profit accruing from land transferred.

The section also makes provision for the Councils to submit any disputes to the Oversight Committee. Before a financial settlement is finalised the Cork local authorities will need to consider the implementation plan and any recommendations of the Oversight Committee. The Minister may also request a report in relation to the implementation of the financial settlement. The Cork local authorities are required to submit a review of the financial settlement (any time between 3-10 years of initial operation) to the Minister, outlining any intentions to alter or maintain the financial settlement.

Under **section 28, Part 3** any charges (meaning county rates, rent of charges from a tenancy or repayments from a housing loan), for the local financial year in which the transfer takes place, will continue to be due to the County Council after the transfer day.

Restructuring in terms of elections, secondary legislation and ‘planning and development’: Part 3

Reassigning the Register of Electors and Polling Districts

Section 22 specifies that the **register of electors** for:

1. The *City Council*, which will come into force on 15 February 2019⁸⁹ following corrections, will consist of both the register of electors for the City Council registration area and the persons registered as local government electors in the relevant area, on that date;
2. The *County Council*, which will come into force on 15 February 2019⁹⁰ following corrections, will consist of only the register of electors for the county council registration area and not the persons registered as local government electors in the relevant area, on that date.

Section 23 sets out how the **polling districts** will be re-designated. Where a polling district is situated partly inside and outside of the relevant area,⁹¹ the city and county councils will need to join the part(s) situated in the relevant area to a polling district in the respective administrative areas, or alternatively, constitute it as a new polling district. This will be a temporary arrangement known as an “**interim polling district arrangement**” and will cease to have effect where the local authority makes a scheme to divide the county into new polling districts for the purposes of elections.⁹²

Continuation of secondary legislation (instruments)

Under **section 26** every instrument⁹³ shall continue to apply to the relevant area after the transfer day, provided it does not contravene the current Bill. Any power under an enactment to amend, vary or revoke the instrument may be exercised by the city council. Instruments will cease to apply one year after the transfer day, or such other period agreed by the city council within that year.

Section 27 outlines that every act done, decision made or instrument issued before the transfer day, by the county council, shall continue to have effect as if issued by the city council.

⁸⁹ See [Part 1 Second Schedule of the Electoral Act 1992](#).

⁹⁰ *Ibid.*

⁹¹ “**Relevant area**” is set out under section 2 of this Bill as the area inside the ‘red line’ and hatched as green on the deposited map.

⁹² This new scheme is in accordance with [section 28 of the Electoral Act 1992](#).

⁹³ A legal instrument is a formal legal document such as an order, regulation, rule, bye-law, warrant, licence, certificate or other like document: [Interpretation Act 1937 s.3](#) (now repealed). Definition taken from Murdoch’s Legal Dictionary.

Development Plans and Planning applications

Under **section 24** development plans and local area plans will continue to apply, in respect of the relevant area, until such time as a new plan is made by the city council. However, development plans can be varied by the City Council in accordance with [section 13](#) or the [Planning and Development Act 2000](#).

Section 25 sets out how planning applications⁹⁴ and development contribution schemes⁹⁵ will be dealt with as a result of the boundary alteration:

- The County Council shall remain the Planning Authority⁹⁶ in respect of permissions granted or planning applications made for development in the relevant area, before the transfer day;
- The enforcement functions of a Planning Authority shall be performable by the City Council in relation to planning applications and consequent decisions made before the transfer day, in the relevant area. The exception to this will be when the County Council already started enforcement proceedings in respect of a planning contravention, before the transfer day, in the relevant area. In these limited situations the County Council will continue to perform these functions;
- Contributions paid in relation to the relevant area, before the transfer day and vested in the City Council under Part 2 of the Bill, must be used by the City Council for the purpose of public infrastructure and facilities;
- Any development contributions schemes devised by the city council, from the transfer day, must apply to the relevant area.

Consequential Legislative Amendments: Part 4 and 5

Amendment of Local Government Act 2001

Section 29 of the Bill makes the following amendments:

1. [Section 10](#) of the Local Government Act 2001⁹⁷ is amended to reflect the alteration of boundaries Local Authority boundaries, proposed by section 8 of the Bill. Section 10 sets out that:
 - a) The boundaries of a local government area county are the boundaries of the corresponding county, as existed prior to 01 January 2002; and,
 - b) The boundaries of a local government area city are the boundaries of the corresponding county borough, as existed prior to 01 January 2002.

⁹⁴ **Planning application** means an application to a planning authority in accordance with permission regulations for permission for the development of land required by those regulations under [section 2 of the Planning and Development Act 2000](#).

⁹⁵ **Development contribution schemes** include conditions for requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority and that is provided, or that it is intended will be provided, by or on behalf of a local authority (regardless of other sources of funding for the infrastructure and facilities) under [section 48 of the Planning and Development Act 2000](#).

⁹⁶ **Planning authority** means

- (a) in the case of a county, exclusive of any borough or urban district therein, the council of the county,
- (b) in the case of a county or other borough, the corporation of the borough, and
- (c) in the case of an urban district, the council of the urban district,

and references to the area of the planning authority shall be construed accordingly and shall include the functional area of the authority, under [section 2 of the Planning and Development Act 2000](#).

⁹⁷ Please note that section 10 of the 2001 has been amended by [Local Government Reform Act 2014](#) (1/2014), ss. 12(1) and 25(4)(b), S.I. No. 214 of 2014 and the [consolidated version](#) is available from the Law Reform Commission.

[Section 10\(5\)](#) of the 2001 Act will also be amended to require that section 10 will not impact on the provisions of the current Bill.

2. [Section 85](#) of the 2001 Act, which details agreements concerning the performance of functions, will be amended by inserting a new subsection 4A. This subsection will ensure that any new agreements and arrangements concerning the functions of a Local Authority will be consistent with section 18 of this Bill (section 18 sets out the arrangements for the performance of certain functions by the city and county councils).
3. [Section 140](#) of the 2001 Act provides that an elected council can require, by resolution, that 'a particular thing be done' by the Local Authority or Chief Executive. Section 140(10) of this Act will be amended to additionally provide that such a resolution will not apply to the performance of any functions, acts or decisions made for the purpose of the current Bill.

Section 32 of the Bill makes the following amendments:

1. [Section 144](#) of the 2001 Act sets out the position of Chief Executives for city and county councils. Section 144(1) will be amended so that the current provisions applying to the position of Chief Executive will be subject to a new section 144A, as inserted by this Bill. Section 144A sets out the requirements associated with the establishment of the new position of '**Chief**

Executive of Galway local authorities'. These requirements are:

- The abolition of the position of chief executive for both the city and county councils of Galway. They will consequently be replaced by the one position, the 'Chief Executive of the Galway local authorities';
- The Minister may appoint either the current Chief Executive of the city or county council as the first Chief Executive of the Galway local authorities. The Minister may also specify, by order, which council the new Chief Executive will be employed by;
- The term of office for the new Chief Executive will remain the same period of term of office which applied immediately before appointment. Once that term expires they will be eligible for reappointment as Chief Executive of Galway local authorities;
- Apart from some modifications listed in section 144A(7) of the current amendment, Chapter 2 of the 2001 Act will continue to apply to the new Chief Executive;
- The new Chief Executive may continue to complete work started, but not finished, by the previous Chief Executive;
- Any act done or instrument made by the old Chief Executive, before the commencement of this provision, will continue to have effect.

Amendment of Local Government Act 1991

Section 30 of the Bill makes the following amendments:

1. [Section 28\(4\)\(f\)](#) of the 1991 Act will be deleted. This subsection relates to the exclusion of a member of a boundary committee taking part in the preparation of a [section 33](#) report if he/she is an officer of the local authority or council to which it relates.
2. [Section 31](#) of the 1991 Act deals with the powers of the Minister to alter boundaries by Order. Both sections 31(1)(b) which allows a Minister to alter boundaries, by order, which are at odds with the terms of the amendment proposal, as well as section 31(3), which allows the Minister to alter boundaries where it is considered to be in the interest of effective local government, will be removed.
In addition section 31(2), which allows a Minister to request and consider the report of a boundary committee examining the statement of a respondent who disagrees with the proposed application for a boundary alteration, will be removed. This will be substituted with a

provision which prohibits the Minister from making an order to alter boundaries where a respondent disagrees, in a material respect, with the terms of the proposal.

3. [Section 33](#) of the 1991 Act relates to boundary committee reports. The current Bill will result in the deletion of certain wording in section 33(1). The result will be that the boundary committee will no longer be requested by the Minister to prepare a report on the alteration of a local authority boundary, following a respondent's statement of response.
4. [Section 33\(4\)\(b\)](#) of the 1991 Act requires boundary committees to publish a notice which requests submissions from any person concerned for the preparation of their report on the boundary alteration. The current Bill removes the reference which states the report must relate to a boundary of a county or a county borough.

Amendment of Valuation Act 2001⁹⁸

Section 31 of the Bill proposes to amend the definition of “material change of circumstances” as set out in [section 3\(1\)](#) of the [Valuation Act 2001](#)⁹⁹. This means that a transfer of property, as proposed under the Bill, will not constitute a material change for the purposes of the Valuation Act.

⁹⁸ A [consolidated version](#) of the 2001 is available from the Law Reform Commission.

⁹⁹ As amended by the [Valuation \(Amendment\) Act 2015](#).

Commentary and financial implications

This section provides a brief overview of some commentary on the Bill's proposals and the potential financial implications therein. Some of the most recent media commentary is listed on the L&RS [Bills Tracker](#) page for the Bill. However, it should be kept in mind that the proposed local government arrangements in both Cork and Galway have been the subject of considerable scrutiny and consultation over the last five years. This is particularly evident in the work of the various expert and advisory committees established by the Minister and discussed above.

In an editorial piece, the Irish Times remarked on the proposals as follows:¹⁰⁰

“The latest move in this game of musical chairs involves a substantial boundary extension for Cork City Council, which will increase the population of its administrative area by 100,000 and, at the same time, the abolition Galway City Council so that the city would be absorbed by its hinterland – just as Limerick and Waterford have been in recent years. Cork city was slated to suffer the same grim fate until wiser counsels prevailed, although the boundary extension now being granted doesn't take in the entire metropolitan area, as it should have done.”

The piece went on to state that:¹⁰¹

“...[w]ith increasing competition throughout Europe for inward investment and tourism, it is vital that all of our cities can stand up for themselves...The only crumb of comfort is that Cork city will not only survive as an quasi-independent entity, but will be permitted to grow larger, however much this is resented by the county that surrounds it.”

While there has been media commentary on the proposed amalgamation of the Galway Councils (not the subject of this Bill), there has been little specific commentary however on the decision to appoint one chief executive to lead both Galway County and Galway City Council as proposed in the Bill.

In relation to the extension of the Cork City Council boundary, the Irish Times reported in December 2017 that the proposals represent a compromise agreed between Cork City Council and Cork County Council:¹⁰²

“A compromise proposal agreed between the city and county councils was unanimously endorsed by Cork city councillors following a briefing ...[T]he two councils issued a joint statement in which they said the meeting held ...involving political and executive representatives from both sides, had provided an agreement...to present a report to the Minister”

This piece goes to quote the then Lord Mayor of Cork city Cllr Tony Fitzgerald as describing the outcome “as one that offered the city council and county council the opportunity to grow Cork in a way that would provide a counterbalance to Dublin and the east coast” and that “[t]he scale of the

¹⁰⁰ [The Irish Times view on local government: set out cities free](#) – Irish Times, 09 June 2018.

¹⁰¹ Ibid.

¹⁰² [Cork city population to increase to more than 200,000 under deal: Councils agree deal to expand city to include satellite towns and Cork Airport](#) – Irish Times, 06 December 2017.

boundary extension...represents a significant reduction in the boundary originally proposed by Cork City Council to the Cork Local Government Review group".¹⁰³

The same article quotes then Mayor of County Cork Cllr Declan Hurley as saying:¹⁰⁴

"both councils had invested significant time and effort in recent weeks in reaching a solution and the compromise was a testament to the desire of both councils to conclude the matter locally rather than having a solution imposed by the Minister...Everyone involved has adopted the approach that any boundary alteration must deliver what is best for Cork, its people, its communities, its future,"

Financial implications

The Explanatory Memorandum accompanying the Bill does not make reference to the financial implications associated with the Bill's proposals. There was no Regulatory Impact Assessment (RIA) published by the Department at the time of the Bill's publication. The Oireachtas Joint Committee on Housing, Planning and Local Government decided not to undertake Pre-legislative Scrutiny on the General Scheme of the due ostensibly to the need to expedite the progress of the Bill in the context of May 2019's local government elections.

As noted earlier in the Digest, a backdrop of sorts for any local government reform is the significant reductions in resources across all local authorities since 2008's financial crisis and the related cost savings measures undertaken by Government on foot of that. In this context, both the local government arrangements in Cork and Galway have been, over the last 5 years, the subject of extensive study on the part of review committees and expert advisory / implementation groups.

In the case of Galway, as noted above, it is projected that any future amalgamation of the Councils will be cost neutral. In the case of the Cork, the Report of the Expert Advisory Group on Local Government Arrangements in Cork estimated in its 2017 report that Cork County Council would suffer a net loss of €40 million per year as a result of the proposed boundary change. They suggested therefore a financial adjustment in the order of €40 between both City and County Councils.¹⁰⁵ ¹⁰⁶The Expert Advisory Group also makes the point that a:¹⁰⁷

"...boundary extension of this nature would also have to be accompanied by the transfer of significant numbers of staff from the County Council to the City Council. The payroll costs have been factored into expenditure figures referred to above. However, additional pension costs would be incurred as they arise."

The December 2017 report of the Cork Local Government IOG (Proposal for delineation of extended boundary of Cork City) stated that under its terms of reference "the detailed financial

¹⁰³ Ibid.

¹⁰⁴ Ibid.

¹⁰⁵ 2017: 62

¹⁰⁶ The EAG make the following suggestion in this regard: "the calculation of this payment is made based on the loss of revenue income to one local authority, less the reduction in expenditure that arises from that local authority not having to serve that area." 2017: 90.

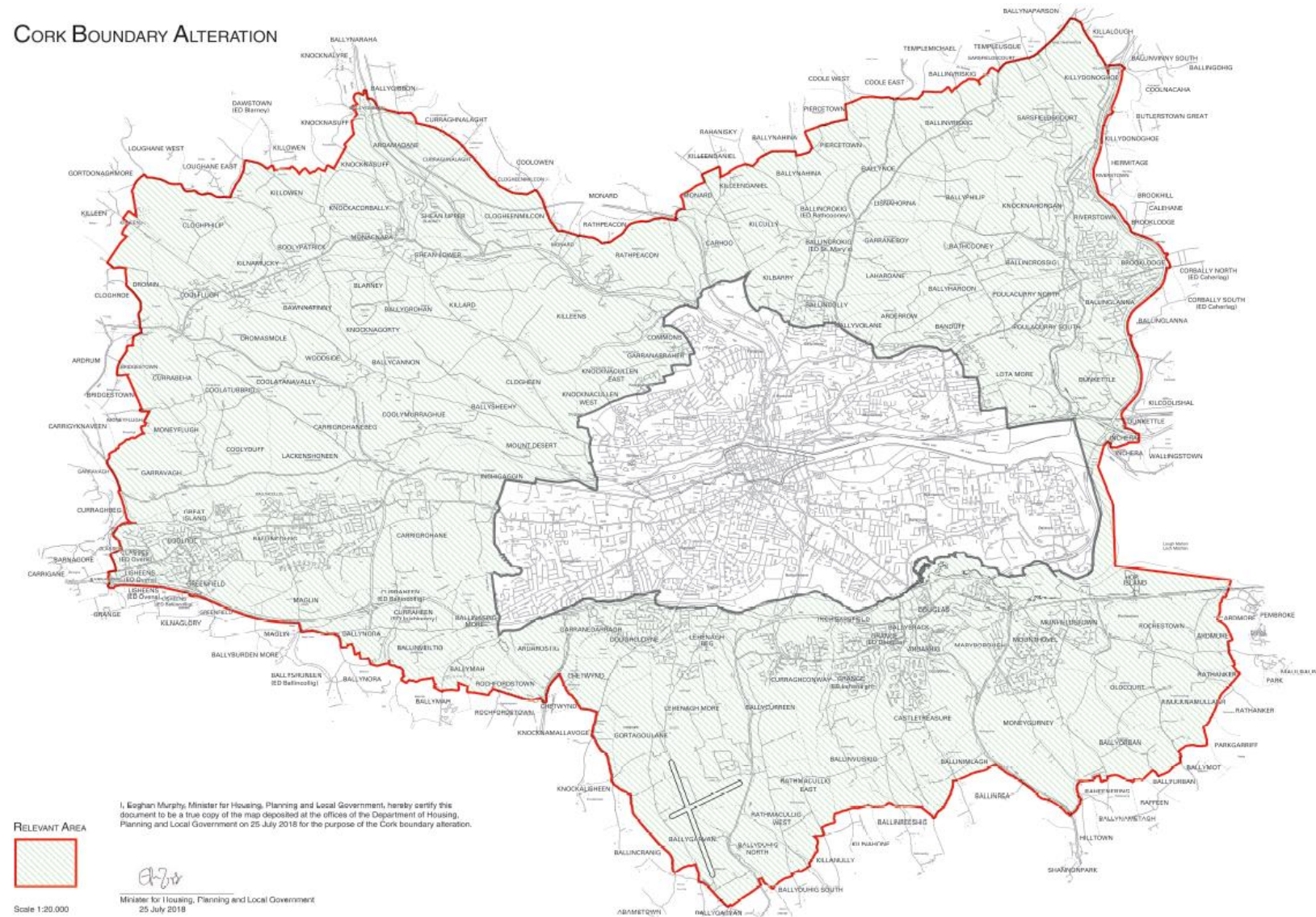
¹⁰⁷ Ibid: 63

implications of the boundary change are matters to be addressed by both Councils and the IOG as part of the detailed implementation process”.¹⁰⁸

¹⁰⁸ 2017: 11

Appendix 1

CORK BOUNDARY ALTERATION



Appendix 2

Table 2.1: Irish local government service programmes

<i>1.Housing and Building</i>	Assessment of the adequacy of housing and the enforcement of minimum standards; management and provision of local authority housing; assistance to persons housing themselves or improving their houses; Traveller accommodation; administration of the social housing options.
<i>2.Road Transportation and Safety</i>	Construction, improvement and maintenance of roads; public lighting; traffic management; road safety education; collection of motor taxation; licensing of drivers, taxi and hackney licensing.
<i>3.Water Supply and Sewerage</i>	Public water supply and sewerage schemes; group schemes; public conveniences.
<i>4.Development and Incentives and Controls</i>	Physical planning policy; control of new development and building; development and implementation of a housing strategy; promotion of industrial and other development; urban and village renewal.
<i>5.Environmental Protection</i>	Waste management; burial grounds; safety of structures and places; fire protection; pollution control; Local Agenda 21; litter control.
<i>6.Recreation and Amenity</i>	Swimming pools; libraries; parks; open spaces; recreation centres; art galleries; museums; theatres; preservation and improvement of amenities.
<i>7.Agriculture, Education, Health and Welfare</i>	Appointments to vocational educational committees, regional health boards, joint drainage committees; administration of higher education grants
<i>8.Miscellaneous Services</i>	Financial management and rate collection; elections; coroners and inquests; consumer protection measures; abattoirs; corporate estate.



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