



Comhshaol, Pobal agus Rialtas Áitiúil  
Environment, Community and Local Government



# Development Contributions

## Draft Guidelines for Planning Authorities





# Ministers' Foreword

Local authorities are making a significant contribution to Ireland's economic recovery, to employment creation and sustainment and in directly influencing investment decisions by helping to improve the environment in which businesses thrive through their planning and economic development functions.

By enabling the funding of essential physical and social infrastructure to support implementation of development plans of local authorities, development contribution schemes are a central instrument in improving the quality and therefore the competitiveness of the area of the relevant local authority thereby establishing an environment in which enterprise can thrive and communities progress.

Since the introduction of development contribution schemes in 2000, they have assisted in the delivery of much needed investment in essential infrastructure along with central exchequer and local authority own resources.

However, the previous suites of schemes were prepared in a very different time. The economic landscape has been significantly altered. Local authorities now, more than ever, need to achieve the right balance between funding necessary infrastructure through planning gain and supporting / promoting economic activity and job creation by reducing costs to business.

Therefore, a key aim for future development contribution schemes must be to promote sustainable development patterns, secure investment in capital infrastructure and encourage economic activity.

The statutory basis for the operation of the various development contribution schemes is set out in the Planning and Development Acts 2000 to 2010. Under the Acts, the making of the schemes is a reserved function of the elected members of the local authority and our Department is tasked with providing the policy guidance framework. This guidance is designed, inter alia, to assist planning authorities to achieve, through their development contribution schemes, a balance between the costs of the services provided and the need to support economic activity. We do not propose to alter the roles and functions of the elected members, the executive arm of local authorities or my Department. However, we do expect each to play its part in ensuring that development contribution schemes are evidence based, realistic, and balanced.

This document is the first step in the production of updated guidance, guidance that will reflect the current economic conditions. This draft is now being issued for a consultation period during which all stakeholders and interested parties are invited to submit their views. It is envisaged that it will lead to planning authorities considering further the impact of development contributions on businesses and competitiveness generally in the development of their schemes.

Some important aspects of the existing schemes must be continued: the schemes must continue to be transparent, including in their development, through a wide consultation process. It will remain the case that contributions may only be levied in accordance with a development contribution scheme formally drawn up by the planning authority and approved by the elected members following a public consultation process.

Local authorities have witnessed a steep decline in revenues from these schemes and it is certain that development contribution income will continue to be adversely impacted in the current economic climate. This reflects wider economic trends. It is important to acknowledge also that a number of local authorities have already responded to the very difficult economic circumstances that currently exist by amending their respective development contribution schemes to reduce the contribution rates in particular for employment generating projects. Our Department is also aware that, in some cases, local authorities have permitted the payment of development contributions in phases. Cases like these – where local authorities take a flexible and proactive approach so as to support economic activity – should become the norm.

We are confident that the new guidance - which is both pro-planning and pro-jobs - will enable authorities to achieve the right balance into the future between generating the revenues required to provide the necessary infrastructure associated with new development and creating the right conditions to support sustainable development patterns, economic activity and renewal.



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# Introduction and Context

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## **Aim of the guidelines**

The principal aim of this document is to provide updated guidance on the drawing up of development contributions to reflect the radical economic changes that have impacted across all sectors since guidance last issued 2007. While it is recognized that the adoption of development contribution schemes is a reserved function of the elected members of each planning authority, one of the outputs of the new guidance should be a greater achieve a level of consistency in development contribution schemes on a national basis providing enhanced clarity to inform investment decisions across different local authority areas.

## **Status of the guidelines**

This document is a consultation draft of the proposed guidelines. Following a review of submissions received during the public consultation phase, these will be finalised and issued as ministerial guidelines under section 28 of the Planning and Development Acts 2000 to 2010.

On foot of this guidance, local authorities who have not reviewed the operational development contribution scheme(s) in their area since January 2009 should undertake a review of their development contribution scheme(s) by 30<sup>th</sup> September 2012. In advance of that, authorities should also seek to ensure that unpaid contributions owed by developers who have already benefited from planning gain through a grant of permission granted are collected.

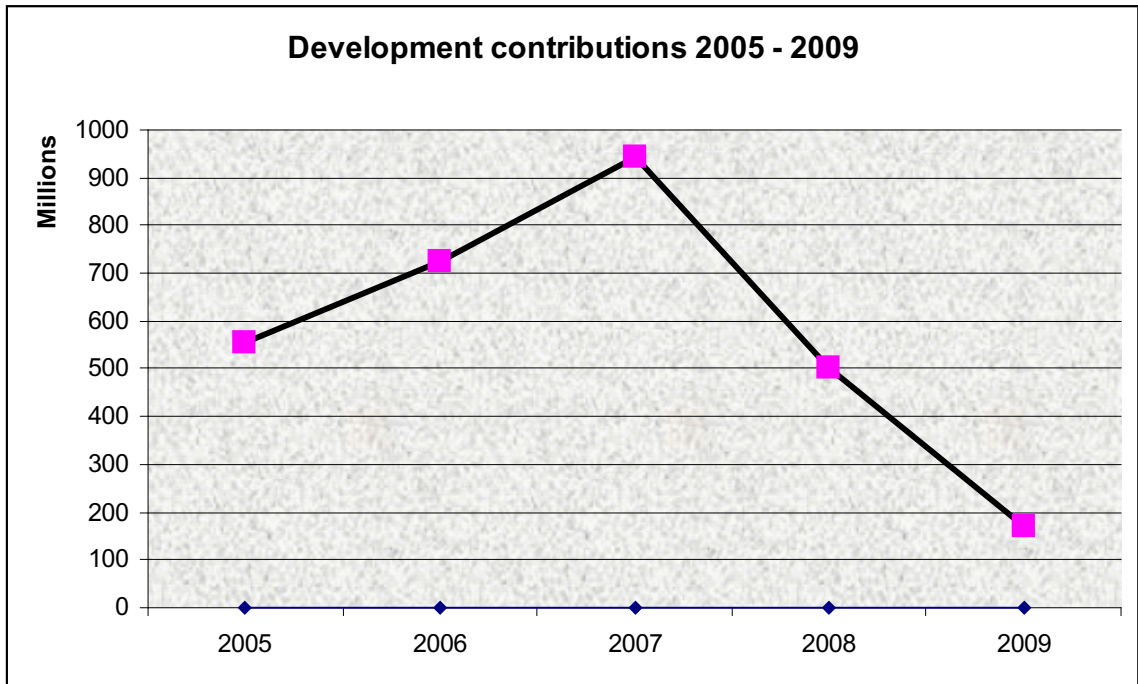
This guidance replaces guidance previously issued in Departmental Circulars PD 4/2003 and PD 5/2007.

## **Policy context**

Development contributions were introduced under section 26(2) of the Local Government (Planning and Development) Act 1963, which empowered local authorities to require payment of a development contribution as a condition of a planning permission. The Planning and Development Act 2000 introduced provisions requiring local authorities to prepare development contribution schemes. All planning permissions granted by planning authorities (under section 34) after the adoption of development contribution schemes under the Planning and Development Act 2000 are subject to the conditions of those schemes.

2007 saw a peak in incomes from development contributions reflecting the record levels of planning activity in 2006. Since then the amounts collected annually have been in decline as the economic downturn took hold and construction activity in particular collapsed.





### **Water Services Structural Reforms – Implications for Development Contribution Schemes**

The Government’s proposals for the reform of water services delivery will necessitate changes to the development contribution schemes in the future. The Government’s proposals, which include the establishment of a State-owned water utility, the creation of an economic regulator and the introduction of domestic water charges, will require the development of a new water pricing policy framework.

The Department has commenced the preparation of the new pricing framework and it is intended that it will address, inter alia, the approach to be taken by Irish Water to funding the costs of infrastructural investment. As it will take time to implement the structural reforms and as local authorities will continue to invest in water services infrastructure until the utility is in place, it is important that the arrangements that are currently in place for the funding of water services infrastructure are maintained.

Water services should therefore continue to be provided for in development contribution schemes until further guidance is issued by the Department.

### **Types of development contribution scheme**

Development contributions provide the only statutory mechanism for capturing planning gain as part of the development management process. There are three types of development contribution scheme, namely:

### General Development Contribution Schemes

Under section 48 of the Planning and Development Acts, planning authorities must draw up a development contribution scheme in respect of certain public infrastructure and facilities provided by, or on behalf of, the local authority that generally benefit development in the area. All planning permissions granted are subject to the conditions of the development contribution scheme in operation in the area of the planning authority.

### Special Development Contributions

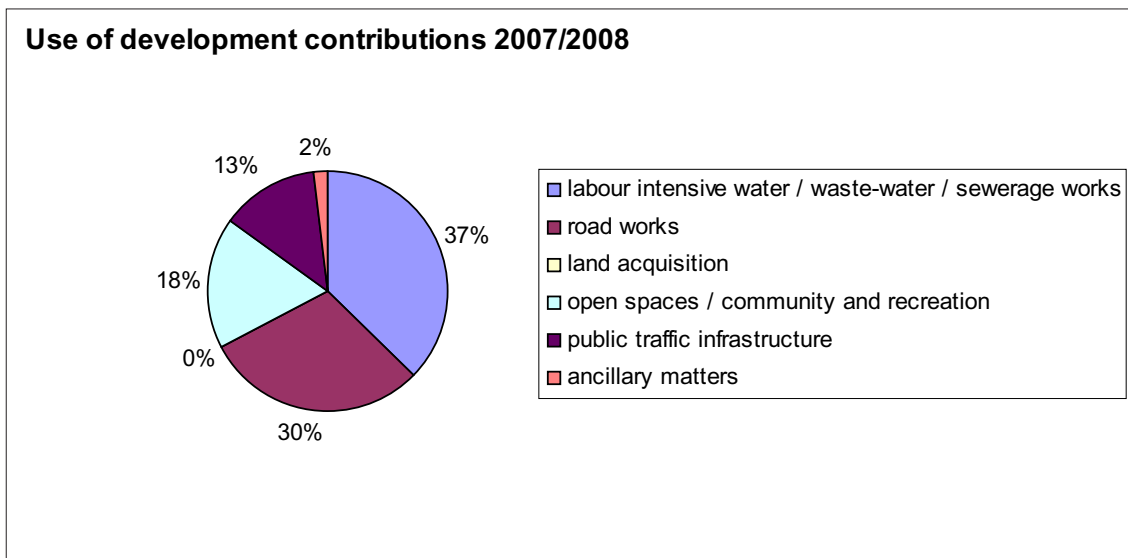
A special development contribution may be imposed under section 48(2)(c) where specific exceptional costs, which are not covered by the general contribution scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed development, such as a new road junction or the relocation of piped services. The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution.


### Supplementary Development Contribution Scheme

Section 49 of the Act provides for the drawing up of a supplementary development contribution scheme to facilitate a particular public infrastructure service or project which is provided by a local authority or a private developer on behalf of and pursuant to an agreement with a local authority (e.g. through Public Private Partnership), and which will directly benefit the development on which the development contribution is imposed. A good example of such schemes include those prepared to support the delivery of public transport projects like the LUAS network and Cork-Midleton rail line.

## Use of development contribution funds

The following chart illustrates how development contributions were used in 2007 / 2008.





Supplementary schemes, (Section 49) have been used primarily for the funding of specific transport infrastructural projects under the Transport 21 investment programme. Levies from the supplementary schemes were estimated to have had contributed nearly €44m of the capital costs of the provision of major infrastructure projects under Transport 21 in 2009.





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# Supporting Economic Development

# Supporting Economic Development

## Key Messages

- Development contributions are not cash-cows: there is an important balance to be struck between the funding of public infrastructure and the need to encourage economic activity and promote sustainable development patterns. It is essential that development contribution schemes do not impede job creation or facilitate unsustainable development patterns.
- Equally importantly though, development contribution schemes can actually facilitate job creation through targeted support for specific development types. These guidelines demonstrate a strong link to the Government's Jobs Strategy in terms of the types of project that should be supported through reduced rates and waivers, and the treatment of enterprises being supported by the IDA / Enterprise Ireland.
- While it is expected that planning authorities will ensure that developers make an appropriate contribution towards the costs of public infrastructure and facilities, the local authority must ensure that it avoids levying development contributions that are excessively high – development contributions are ultimately designed to offset only a portion of the costs of public infrastructure and facilities.
- Planning authorities should consider whether there are any measures open to them to support new or existing enterprises in their areas by, for example, reduced development contribution rates, deferral payments, etc.

Future development contribution schemes should reflect the Government's focus on job creation.

Adopted development contribution schemes should contribute to the promotion of sustainable development patterns, economic activity and to securing investment in capital infrastructure and economic activity. They should also reflect the reduced costs of infrastructure provision in recent years relative to when schemes were last revised.

To bring this about, planning authorities **are required** to include the following in their development contribution schemes:

- reduced rates of development contributions or waivers for development in town centres to support town centre development;
- waivers in the case of change-of-use permissions, where change-of use does not lead to the need for new or upgraded infrastructure / services;
- reduced rates of development contributions for businesses grant-aided or supported by IDA/Enterprise Ireland or other local authority or state supported local development agencies, as well as reduced rates for developments that would progress the Government's Jobs Initiative;
- provision to charge only net additional development in cases of redevelopment projects (e.g. a redevelopment totaling 200m<sub>2</sub> of which 150m<sub>2</sub> is replacing existing development, contribution should only be levied on the additional 50m<sub>2</sub>);
- waivers for broadband provision and sustainable energy infrastructure; and,

- waivers in respect of works on protected structures.

It is also open to local authorities to include options for deferred or phased payments - subject to formal agreement around phasing between planning authority and developer - to promote certain types of development.

Planning authorities are also required to ensure that their development contribution schemes appropriately promote the development of areas prioritised in their core strategies required under the Planning and Development (Amendment) Act 2010.

Examples of the approach above would include:

- incentivising activity through lower development contributions in the areas prioritised for development in the core strategy (with a complementary increase in the rate outside of these areas to ensure no shortfall in the council's budget) In this regard authorities should be guided by the settlement hierarchies set out in their Development Plans, with preference given to National Spatial Strategy Gateways and Hub towns, Strategic Development Zones (SDZ's), Docklands as well as other towns designated for significant future growth in the relevant Regional Planning Guidelines;
- prioritising investment in infrastructure in those areas designated as priority locations for future development above, particularly those locations with a strong employment capacity and potential, and which have appropriate plans in place; and
- ensuring that there is regional coherence in terms of policy and levels of contributions set to minimise unsustainable development diversion across authority boundaries.

It is important that there is a maximum percentage set for projected development within these priority areas (e.g. 50% of total estimated development across an administrative area) to ensure that any reductions in those contributions can be adequately covered by increased contributions in the remaining areas. It is essential also that planning authorities ensure that there is clear and explicit alignment between areas identified for such treatment in their development contribution scheme and the plan led objectives set out in the core strategy and development plan: if all or too many areas are identified as "priority areas" then effectively no area is a priority area. A measured approach is therefore required.





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## Preparing a Development Contribution Scheme: Recommended Methodology

# Preparing a Development Contribution Scheme: Recommended Methodology

While the effect of development contribution schemes will vary between local authority areas depending on the scale of investment required, existing stock of infrastructure etc and the plans of the local authorities, it is nonetheless essential that the methodologies used in preparing development contribution schemes (including supplementary development contribution schemes) are clear and broadly consistent.

However, development contribution schemes should not be seen as a mechanism to secure competitive advantage through artificial lowering of contributions, a so called race to the bottom, because the net effect of such an approach would undermine the capability to improve the environment in which business prospers and society progresses to the detriment of overall competitiveness.

There are two key phases to the preparation of the scheme.

- Phase 1 covers the preparation of the draft scheme.
- Phase 2 covers the public display of the draft scheme, consultation with the public on its provisions and finalisation of the scheme by the members, taking account of any submissions made.

This section of the guidelines sets out a general approach to preparing the scheme across both stages above, which all planning authorities **should** follow. The approach outlined is based on a seven stage methodology which can be summarised in terms of:

1. Review of any previous contribution scheme;
2. Estimating the nature and scope of future development envisaged;
3. Determining future infrastructure costs;
4. Allocation of costs to anticipated development;
5. Identification of appropriate adjustments (waivers and reductions);
6. Testing and finalisation of the draft scheme;
7. Public consultation and finalisation of the development contribution scheme.

Further guidance on key actions under the various steps is outlined below.

## **Stage 1: Review Previous Schemes**

A concise review of the performance of previous schemes can be very informative in shaping a new scheme. Questions that could be examined might include:

- What was the level of progress in relation to delivering essential physical and social infrastructure?
- What type of feedback on practical aspects of the operation of the scheme was received?
- Has the operation of the scheme had any unintended effects in relation to the location of development?
- What are the key issues to be addressed in preparing a new scheme learning from past experience?

- What are the views of the elected members on the operation of the existing scheme?

## **Stage 2: Estimating the Nature and Scope of Future Development**

The provisions of the relevant development plan and any local area plans are the primary source of information on the nature and scope of future development, taking account of additional data in relation to development trends and statistics.

For this reason and taking account of the six year life of development plans and six to ten year life of local area plans, it is best practice that the preparation of schemes should be finalised to take effect at the earliest stage possible in the development plan or local area plan cycle.

Estimating future development, while sometimes difficult, is critical to establish the basis for schemes.

The key types of development for which estimates should be obtained fall into two main categories:

1. Residential; and
2. Non-Residential.

In the case of residential, the population and housing targets set out in the relevant development plan core strategy should provide the most appropriate basis from which to commence the estimation process. Currently two measures of future residential development are used, number of units or square metres. In order to ensure ease of comparison between schemes, the numbers of housing units anticipated should be used as the basis.

Regarding non-residential forms of development, estimates of future anticipated development should be prepared under three categories:

1. commercial floorspace (including retail and office space);
2. industrial floorspace; and
3. 'other' development including community halls or other publicly provided facilities.

In order to achieve a standard basis on which rates could be determined, broad estimates of the floor area (m<sup>2</sup>) of anticipated development should be prepared, including the assumptions and any other relevant factors which have shaped the estimates.

In terms of sources of information to be used in the estimates above, the development plan should be the key starting point as well as relevant parts of the core strategy, housing strategy, retail strategy, commercial property tracking services as well as a review of historical development patterns and assumptions going forward.

### **Stage 3: Determining Future Infrastructure Costs**

The aim of the scheme is to ensure that developments benefiting from infrastructural investment pay a contribution towards the provision of infrastructure that is essential to enabling that development in the first place.

It is therefore necessary to identify such infrastructure and the costs of its provision for each of the types of development anticipated. Such costs should be classified into four categories;

1. transport;
2. recreation and amenities;
3. community facilities (including in certain cases schools); and
4. water supply and waste water services.

As noted in chapter 1, pending the implementation of the Government's proposals for the reform of water services delivery, it is important that the arrangements that are currently in place for the funding of water services infrastructure are maintained.

When determining the costs within each category, it is important that all relevant details regarding the infrastructure or facilities which are included are set out in a clear and understandable form. For example item name, current status, anticipated cost and geographical location should all be recorded, as well as any key assumptions which relate to the items. A table containing this data would be a suitable means of displaying the information.


Schemes should only include details of infrastructure that has been identified in relevant objectives of development plans and local area plans. Furthermore, planning authorities should only include infrastructure that is clearly essential to realising the objectives of the development plan and enabling anticipated development. Up to date costings are also essential to ensure maximum benefits from recent reductions in land purchase and construction costs.

Details of such infrastructure should be outlined in a manner capable of being integrated into the Department's development planning geographical information system (Myplan.ie) and the further details will issue from the Department to local authorities in the future regarding information formats.

### **Stage 4: Allocation of Costs to Anticipated Development**

Having identified anticipated development levels and estimates of infrastructure costs, the next step is to allocate those costs to the anticipated types of development.

Current schemes undertake this process in a variety of different ways. For example in the case of residential development, size of dwellings (eg m<sup>2</sup> divided into various size categories), location of dwellings (eg urban or rural), level of infrastructure services (eg provision of water services needed yes/no) are some of the bases used. Also in some cases development contribution rates are determined on a straightforward unit basis.



In the case of non-residential development, current schemes set out rates based on a range of different approaches, mainly related to the type of non-residential development involved.

A variety of approaches makes comparison of schemes difficult. Therefore, adherence to a consistent cost allocation methodology as outlined below is strongly recommended.

### ***Step 1***

A first step within this Stage is to determine the allocation of the costs between residential and non-residential classes of development. When allocating costs between these two forms of development, Planning Authorities must consider the following factors:

- The level and types of infrastructure and facilities likely to be required by each of the two broad classes of development as set out under the development plan and core strategy;
- The need to promote sustainable economic development.

The rationale and working assumptions used in devising a particular approach to this balance in the allocation of costs should be clearly stated.

### ***Step 2***


This step would involve deciding what proportion of the anticipated total costs should be attributable to existing residential and existing non-residential development. A final decision in this regard would depend on the particular circumstances in the area of the scheme. However an important factor to take into consideration is the proportion of new growth relative to the level of existing development which would benefit from the anticipated infrastructure and services expenditures over the period of the scheme. When determining the level of benefit it may be appropriate to identify say three categories of benefit, ranging from direct through intermediate to low or diffuse. The geographical spread of the benefits would also be a relevant factor to take into account.

The reasons for adopting a particular balance in the allocation of costs should be clearly stated.

### ***Step 3***

This step entails deciding within the residential and non-residential categories how the costs are to be attributed.

In the case of residential development, taking account of the direct and indirect benefits to households (irrespective of location) of improvements to enabling infrastructure benefiting such development and their occupants over the general area of the scheme, not just in the location of the house, planning authorities should set a single rate per dwelling.



For example, the practice of having a low level of contribution for new houses in rural areas served by proposed private wells and on site wastewater systems does not take into account other supporting infrastructure in the wider area, often in nearby towns and villages, benefiting that development.

However, within the non-residential categories, the intensity of infrastructural usage by different categories of for example employment related activity should be taken into account.

### **Stage 5: Identification of Appropriate Adjustments**

The next stage is to consider whether any specific adjustments, mainly, in the current environment, reductions or exemptions, should be made to the emerging scheme in order to achieve specific objectives of the development plan such as promoting certain categories of or locations for development or economic activity.

Again, a step by stepwise approach of the type set out below should be followed by planning authorities.

#### **Step 1**

Identify the types of buildings/uses which should be considered for possible reduction. Broadly, it may be possible to consider reductions for a wide range of types depending for example on the Planning Authority's strategic aims or the status of the organisation involved. Regarding strategic aims, Planning Authorities may wish to encourage certain defined types of enterprises (see Chapter 2), particularly those which are likely to have strong job creation potential or are enterprises which can provide a strong impetus for subsequent enterprise development ('pump priming' enterprises).

The reasons for deciding on which types of buildings/uses should receive some form of reduction should be clearly stated.

#### **Step 2**

Determine the level of reduction in the case of each identified building type/use. It is possible to apply a wide range of reductions, from full exemption (100% reduction) to a modest reduction (say 10%). In many current schemes the reductions are either 50% or 100%. A more nuanced approach may well be appropriate which would entail there being a wider range of reductions. Of particular note when considering levels of reductions are the following:

- The need to encourage development in certain areas outlined in Chapter 1;
- The need to prioritise development which accords with the policies set out in Core Strategies;
- The need to encourage economic development, particularly enterprises which have strong job creation potential or which are of a 'pump priming' nature.

The reasons for deciding on levels of reduction should be clearly stated.

### **Stage 6: Testing and Finalisation of the Draft Scheme**

Having identified anticipated development, reasonable infrastructure costs and considered appropriate adjustments to achieve plan aims, the Planning Authority

should then test the implications of such adjustments for income over the period, considering whether the income reductions that could arise might have implications for the overall sustainability of the scheme or whether either infrastructure requirements or allocations of costs should be adjusted to compensate.

Only after such testing has taken place and it has been confirmed that within reasonable bounds the necessary funds are likely to be received should any adjustments be finalised.

Once these stages have been completed, the planning authority should have a clear and robustly constructed scheme to circulate to the elected members for their consideration for approval to publish for public consultation.

### **Stage 7: Public Consultation and Finalisation of the Scheme**

The provisions of the planning and development legislation set out the various steps to be followed in the publication of a draft scheme, the collection and analysis of submissions and the decision making process of the planning authority.

The adoption of a development contribution scheme is a reserved function of the elected members. It is essential that in discharging this important legal function that is central to enabling the implementation of development plans and local area plans, the elected members make their decision on the basis of clear evidence as to the appropriate course of action, particularly the balance between the level of development contributions and progress in delivering future infrastructural improvements and taking account of the requirements of the adopted development plan in this regard.

### **Consultation**

It is important that authorities are proactive in disseminating information on draft schemes, consultation requirements are set out in the box below.

#### **Consultation Requirements:**

1. Publish notification of new draft scheme in local newspaper(s).
2. Consult with the County Development Board and County Enterprise Board.
3. Consult with key stakeholders, on whom the scheme may impact.

Authorities are also encouraged to utilise a variety of media, such as local radio, local authority websites, twitter, facebook etc. to raise awareness regarding the drawing up of development contribution schemes. A more widespread consultation process would also assist authorities in addressing any particular operational issues identified by stakeholders, when reviewing existing schemes. Full public consultation should also promote the maximum degree of support for the scheme.

### **Transparency**

A development contribution scheme must state clearly the level of contributions to be payable under the scheme, including any different levels of contributions in respect of different classes or descriptions of developments, the percentage of reduction to be

applied to development attracting such reductions and development deemed to be exempt from the payment of development contributions.

It is equally important that clear linkages are demonstrated between the contributions collected, infrastructure provided and thereby development plans and local area plans being implemented.

In this regard, local authorities could give consideration to erecting information boards giving notice to the public of a particular project funded under the development contribution scheme as was the case for EU and National Development Plan funded infrastructure in recent years.

Transparency in the drawing up of schemes and in the application of the development contributions collected are essential elements in achieving cross community and cross sectoral support.

## **Comments**

The guidance circulated here is a draft version of the final guidance. As such, the Department welcomes comments and suggested amendments or additions from planning authorities, any interested organisations and the public.

Some suggested areas for response are contained in the box below. Other comments are also welcomed.

- Are development contribution schemes an appropriate mechanism to secure implementation of the development plans and local area plans of the local authorities?
- How do you think the current structure of the various types of development contribution scheme can be harnessed to support economic renewal and job creation while also supporting sustainable development patterns?
- Are there other actions that could improve the consultation process in respect of the drawing up of development contribution schemes?
- Are there categories of development which you feel should be exempted by means of a waiver or to which reduced rates should apply?
- Are there other options for flexible payments that could be adopted?
- Development contributions are ultimately designed to offset only a portion of the costs of public infrastructure and facilities. What proportion of the overall cost to be funded through development contributions do you think would be appropriate?





