

Chapter 7

**Department of Environment, Heritage
and Local Government**

7.1 Development Contributions Schemes

The Planning and Development Act, 2000, consolidated the planning system in Ireland. As part of the planning process local authorities may levy development contributions from applicants. Sections 48 and 49 of the Act which came into operation on 11 March 2002 overhauled the existing development contributions arrangements.

All local authorities adopted schemes as required under the legislation and set out the basis for determining the contributions to be paid in respect of the different classes of public infrastructure and facilities provided by the local authority.

One of the objectives of the reforms under the 2000 Act was to introduce transparency into the way in which development contributions were levied and applied. Each local authority is required to include details of contributions received and contributions owing to it, together with information on how the contributions have been expended, in the statutory annual report of the authority.

General Administrative Arrangements

The adoption of development contribution schemes is a reserved function for elected councillors. They have the powers to make, amend or reject a development contribution scheme proposed by the manager following a public consultation process. Councillors have the central role in overseeing the level of contributions being sought and the way in which these contributions are spent by the authority.

The role of the Department is to provide the statutory and policy framework within which individual development contributions schemes are adopted by each local authority following public consultation. Policy guidance in the form of circular letters in 2003 and 2007 reminded local authorities of their obligations under the Planning Acts while recognising that the adoption of development contributions schemes remained a reserved function.

Managers are required under Section 135 of the Local Government Act, 2001, to submit to their local authority an annual report of the programme of capital projects proposed for the forthcoming year, including projects financed from development contributions. In 2006, the Department emphasised to local authorities the importance of providing to councillors estimates of contributions to be collected, the balance on hand, and the proposed use of these balances. However, it is ultimately a matter for councillors to ensure that sufficient information is provided to them through reports under Section 135 or otherwise.

The Department established an Interdepartmental Committee on Development Contributions in late 2005 to review the operation of the scheme to date, and to consider operational issues of interest to other Departments and the views of sectoral interests. The policy guidance issued in 2007 took account of the Committee's findings and issues. This guidance also includes a requirement that all draft development contributions schemes are sent to County Development Boards for observations in addition to the existing public consultation, thereby providing increased scrutiny.

Many of the schemes are liable for review during 2008, and four reviews have been received by the Department to date. In addition, 17 draft development contributions schemes have been received for review and comment by the Department under the 2007 revised guidance. Assurance has been given by the local authorities that the relevant County Development Boards have been consulted in these cases.

Review Findings

I reviewed the extent to which development contributions had been applied, the purposes for which they had been used, and the general arrangements put in place for accounting and control over them.

The amount of the contribution is set in accordance with the terms of each scheme when planning permission is granted by a local authority. Payment is due on the commencement of work, but may be payable in tranches to match the phases of a development. Security may also be sought to ensure payment of contributions. Money raised through development contributions is applied towards the cost of public infrastructure and facilities including roads, water and sewerage services as well as amenities such as playgrounds, sports grounds and parks. It is ring-fenced from other local authority funds and activities.

In the six years from 2001 to 2006 €1.3 billion has been applied by local authorities. Up to the end of 2007 most of the funding was spent on water services (38%), roads and car parking (31%), and public traffic infrastructure (11%). There has been limited application of development contribution funding to broader community facilities, with approximately 15% being applied under this heading.

A relatively slow rate of expenditure by the local authorities has resulted in the growth of the aggregate unexpended balance of development contributions held by local authorities. This stood at over €1.2 billion at the end of 2006.

Some accounting and control issues have been highlighted in reports of the Local Government Audit Service (LGAS). A general Activity Report issued in August 2006 based on its audit of the 2004 accounts noted that the accounting system for development contributions was unsatisfactory in most authorities resulting in difficulty in establishing an accurate figure for sums due from developers. The issue of unpaid development contributions was highlighted by reference to two large local authorities where unpaid contributions at the end of 2004 were €37m and €138m respectively. The former figure included €15m in respect of phases not yet commenced and €12m under deferred payments *i.e.* instalments and post-dated cheques; the €138m included €60m under deferred agreements. Individual audit reports for 2006 highlighted delays in moving to accrual accounting³⁰ for this activity and noted two instances where revenue-type expenditure was funded from development contributions and an instance where an amount of €206,325 was owed to a local authority by a company in liquidation.

Issues Arising out of Review

I sought the Accounting Officer's views on

- the build up of contributions which stood at €1.2 billion at 31 December 2006
- the deficiencies in accounting and control noted by the LGAS.

Views of the Accounting Officer

In regard to the delays in applying the levies the Accounting Officer pointed out that the timing of expenditure is conditioned by a number of factors, including the fact that the expenditure is invested in long-term capital projects, local authority capacity to deliver schemes involving design, public consultation, consent, procurement and wider market capacity.

³⁰ The Department issued a comprehensive Accounting Code of Practice in January 2004 setting out the minimum requirement for disclosure and presentation of the accounts of each local authority. It includes a number of new developments, accrual accounting and accounting for fixed assets. The Code envisaged accrual based accounting for development contributions.

She stated that the development contributions balance is forecast to fall steadily from the 2006 level to €880m by end 2009 due to a slowdown in construction activity and an expected increase in the annual level of expenditure of contributions.

In regard to accounting and control issues she informed me that while local authorities started to move to accrual accounting in 2003 and 2004, derogation from having to account for development contributions on an accruals basis was given. It was necessary to implement the transition to full accrual accounting on a gradual basis across all local authorities to maintain accounting continuity. However, development contributions were not included initially because of difficulties in identifying historic debtors. Accounting for the contributions on an accruals basis commenced in January 2007 and realisable debtors for 2007 must be shown. The full historic position over the period 2004 to 2007 will be included in 2008 accounts.

By 31 March 2008 all 2006 LGAS audit work had been completed. The audit reports revealed that development contributions were referred to in 64 separate reports. 28 (32%) local authorities accounted for development contributions on an accruals basis in 2006, with cumulative debtors amounting to €131.9m. An analysis of the 2007 accounts received to date indicated that nearly 90% of authorities had moved to accruals accounting, and that realisable debtors were shown in over 80% of cases. The Department is currently carrying out a full analysis of local authority accounts for 2007 and will pursue relevant issues with planning authorities.

She informed me that the two instances where development contribution funds were used for revenue purposes were drawn to the attention of the local authorities by the LGAS. In addition, the Department has restated the restriction on the use of these moneys for current purposes in the 2007 policy guidance. The local authority which had the liquidation debt of €206,325 would be entitled to the normal creditor's remedy in pursuing the amount owed.

Update on Related IT Developments

Many local authority managers in responding to the audit reports indicated that the completion and implementation of a Local Government Computer Services Board (LGCSB) project was the key to the efficient capture of all instances of development contributions arising and would facilitate full control and accounting.

The project commenced in late 2004 but implementation has been delayed due to a change in the pilot location and enhancements required to other related systems. It is currently being tested in one local authority, and will be validated in two others. It is expected to be available to all local authorities in early 2009.

This computer system is designed to assist in accounting for development contributions moneys including recording planning permissions, invoicing developers, and recording receipts. The main feature of the system is an interface between the planning administration system (iPlan) and the financial management system (Agresso) which are the most widely used products in the planning and finance sections of local authorities.

The system will provide for the automatic capture of all granted planning permissions and the associated contribution information. It will also provide the facility to invoice the appropriate developers. All contribution receipts are matched against the various debtor accounts. This suite of integrated systems should provide the necessary information to monitor and control the collection of all moneys due.

Conclusions

A considerable amount of contributions (€1.2 billion) had accumulated at 31 December 2006. The time lag in applying the funds has been attributed to the lead-time in planning and carrying out of long-term capital projects.

The lack of integrated financial and planning systems to capture development contributions increased the risk of non-collection or delayed collection. The interface currently being piloted between the two computer systems should help remedy this.

An information gap in regard to the amount of development contributions outstanding should be addressed with the full introduction of accrual accounting.

