



Kilkenny County Council

Internal Audit Report [REDACTED] **Review of the Usage of Chief Executive Orders**

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**Report
Distribution**
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Director of
Services.

Audit
Committee

LG Auditor

Executive Summary

The requirement for Chief Executive (CE) orders is set out in Section 151 of the Local Government Act 2001. The Chief Executives use CE orders to carry out the executive functions for each Local Authority. Section 151 (2) states that CE Order should be used for every executive function which:

- a) is required by this or any other enactment to be done by order of a CE.
- b) is mentioned in Schedule 15 (See Appendix A)
- c) is designated by order made by the Minister under subsection (9), or
- d) is considered by the CE to be of sufficient importance to be done by order.

At every meeting of the local authority, there should be a register of all orders signed by the CE since the previous meeting of the local authority. It is important to note that the failure or omission to act by signed order does not invalidate any action or decision taken by a CE or a local authority.

Objectives

The objective of the audit is to provide reasonable assurance on the adequacy and effectiveness of controls surrounding the usage of CE orders.

Approach

Our approach involved checking a sample number of CE orders to ensure the following:

- Orders were signed at an appropriate time
- Orders are well maintained and stored in numerical order
- Orders are used in compliance with the legislation
- Orders are signed by an authorised employee

Scope & Limitations of scope

Due to the large number of departments using CE Orders in Kilkenny County Council and the limited resources available to Internal Audit, the scope of this Audit is limited to the following sections:

- Housing
- HR
- Finance
- Planning
- Roads

Audit Risk

- CE Orders not being used for purposes outlined in Schedule 15 of the LG Act 2001.
- No policy or procedures in place to guide staff on using CE Orders appropriately.
- Register for CE Orders not being maintained.
- CE Orders not being made available to members of the council for inspection.
- CE orders being signed by staff without the appropriate delegation.

Co-operation of Management and staff.

Internal Audit received full co-operation from Council Management and staff throughout the course of this review and would like to thank them for their assistance.

*Summary of Findings **

Finding

1. Lack of a formally documented policy.
2. Lack of controls relating to preparing and maintaining CE orders.
3. CE Orders delegating authorisation to delegated officers are not up to date.
4. CE Orders not being raised in compliance with legislation.

** This summary should not be read in isolation but in conjunction with control weakness in certain areas identified and detailed below.*

Detailed Findings & Recommendations

1. Lack of formally documented policy

<i>Finding</i>	<i>Implication</i>	<i>Recommendation</i>	<i>Management Action Plan</i>
A formally documented policy or procedure manual is not in place in relation to CE Orders.	<ul style="list-style-type: none"> • CE orders are not prepared as required under legislation. • Proper authorisation is not in place. • CE orders are not correctly maintained. • Wording of CE Orders are not correct or consistent. 	<ul style="list-style-type: none"> • A formally documented policy and procedures in respect of CE orders. This should include processes and controls in respect of: <ul style="list-style-type: none"> – Delegation Orders and Delegation Spend limits – Requirement for a CE order – Rescinding/cancelling orders – Financial authorisation limits – Filing requirements • Distribute the policy to all staff. • Monitor compliance with the policy on a regular basis and address any instances of non-compliance. 	<ul style="list-style-type: none"> • Corporate will draft a policy / procedure and have same adopted by Management as soon as possible.

2. HR Dept

<i>Finding</i>	<i>Implication</i>	<i>Recommendation</i>	<i>Management Action Plan</i>
<ul style="list-style-type: none"> • Memoranda are signed for the appointment of staff. Under Schedule 15 of the Local Government 2001 Act, a CE order is required for the appointment of staff. • Dates the orders are signed are not included. • A single order is used for multiple appointments. • Orders signed staff who had not been delegated responsibility by the CE at the date of signing. 	<ul style="list-style-type: none"> • Non-compliance with legal obligations under LG 2001 Act. • Potential Data Protection issue where orders for multiple staff appointments are filed on individual personnel files. • Staff members have not been authorised responsibility to sign CE orders. Internal Audit accepts that under the legislation “any defect in a delegation or the absence of a delegation in respect of a function performed by an employee acting in good faith on behalf the local authority does not itself operate to invalidate any action or decision of the local authority”. However, it is important that proper delegation is in place to ensure satisfactory authorisation controls. 	<ul style="list-style-type: none"> • CE orders should be used in relation to appointment of temporary or permanent staff. • Date order is signed should be included on all CE orders. • An individual order should be used for all appointments. • A CE order should be in place to delegate authorisation to staff that are required to sign CE orders. • Section 4 of the Local Government Act 2001 requires Orders raised to be available to the elected members. To facilitate this, an excel list could be put in place giving details of the order issued. • Cognicance of Data Protection requirements should be observed. 	<ul style="list-style-type: none"> • Memoranda are used in respect of all temporary appointments. Orders are prepared for permanent appointments with accompanying memorandum with pay and pension details as this is personal information. • Appointment of staff is in accordance with CE delegated orders. • Multiple orders were only prepared in respect of some temporary appointments. Separate memoranda will be prepared in the future

3. Planning Dept.

<i>Finding</i>	<i>Implication</i>	<i>Recommendation</i>	<i>Management Action Plan</i>
<ul style="list-style-type: none"> All orders filed correctly and sequentially. Sample planning files and enforcement files checked. Copies of CE Orders were found on file. 		<ul style="list-style-type: none"> Section 4 of the Local Government Act 2001 requires Orders prepared to be available to the elected members. To facilitate this and excel list could be put in place giving details of the order issued. Orders are prepared for the refund of planning fees. The overwhelming majority of the refunds are for less than €1,000. There is no requirement to raise orders for these. 	

4. Roads Dept.

<i>Finding</i>	<i>Implication</i>	<i>Recommendation</i>	<i>Management Action Plan</i>
<ul style="list-style-type: none"> All orders filed correctly and sequentially. Orders signed by staff with no record of a CE order in place delegating the authorisation to sign orders. Large contract payments made with no record of Order included in the backup documentation for the payment on a/grosso. 	<ul style="list-style-type: none"> Staff members have not been delegated responsibility to sign order. It is important that proper delegation is in place to ensure satisfactory authorisation controls. Payments are made without appropriate authorisation. 	<ul style="list-style-type: none"> Section 4 of the Local Government Act 2001 requires Orders prepared to be available to the elected members. To facilitate this and excel list could be put in place giving details of the order issued. Orders are prepared for all payments. This seems excessive. Orders should only be required for tenders in excess of €5k in accordance with Procurement Procedures. This should be included in CE Orders policy. A copy of CE order should be submitted as back up for all purchases in excess of €5k. This is in line with the councils procurement procedures. In cases where stage payments are being made on a contract, it is sufficient to include copy of CE Order approving tender acceptance. A CE order should be in place to delegate authorisation to staff that are required to sign CE orders. 	<ul style="list-style-type: none"> CE delegated orders are in place for relevant staff. Orders are signed in respect of all contracts and we will ensure that same is attached to all associated purchase orders in the future

5. Finance Dept.

<i>Finding</i>	<i>Implication</i>	<i>Recommendation</i>	<i>Management Action Plan</i>
<ul style="list-style-type: none"> • All orders filed correctly and sequentially. • Signature stamp was used to sign some orders. • Large payments made to suppliers with no CE Order attached as backup. • Schedule 15 of the LG Act 2001 specifically states that CE Orders are required for the “award of grants, loans or other financial assistance”. LEO Office paid grants totaling in excess of €800k in 2016. No CE Orders were prepared. • Omnibus CE order used for yearend rates strike off which included a number of customer accounts. 	<ul style="list-style-type: none"> • Open to impersonation and possible fraud. • Payments are made without appropriate authorisation. • Potential Data Protection issue orders for multiple appointments are filed on individual personnel files. 	<ul style="list-style-type: none"> • Section 4 of the Local Government Act 2001 requires Orders raised to be available to the elected members. To facilitate this and excel list could be put in place giving details of the order issued. • A copy of CE order should be submitted as back up for all purchases in excess of €5k. This is in line with the councils procurement procedures. • All orders should be signed by hand by the delegated officer. • In cases where the council provides any type of grant or financial assistance, a CE order is required. • Individual orders should be raised for each rates strike off. 	<p>Compliant with Sec 4 of Local Government Act 2001 as the CE orders are available to the elected members. The scanned copies of CE orders are sent to Catherine Cooney monthly for the council meeting by Ann Tobin / Pauline Murray. The recommendation would duplicate this activity.</p> <p>To raise a CE order for all payments in excess of €5,000 is not practical. The raising of a PO should be sufficient as approval limits are delegated according to grade & responsibility.</p> <p>I agree that appropriate orders should not be stamped.</p> <p>To raise a CE order for all payments for grants / financial assistance is not practical. This is delegated function to the awarding section who must follow prescribed guidelines</p>

6. Housing Dept.

<i>Finding</i>	<i>Implication</i>	<i>Recommendation</i>	<i>Management Action Plan</i>
<ul style="list-style-type: none"> • Order numbers continuing from year to year rather than starting a new numbering sequence for each year. • RAS orders filed with Social Housing Orders even though each have their own numbering sequence. • Text on orders not consistent – some using “approved” and others using “ordered”. • RAS Orders were signed after contracts had been signed with landlord and payments commenced. • Some orders signed by Administrative Officers in Housing. No record of CE order delegating authority to Administrative Officers. • Payments with value of in excess of €100k submitted without a CE Order as back up. In some cases the CE order number was quoted. • Community Grants totaling €73k paid in 2016 with no record of any CE Orders being prepared. 	<ul style="list-style-type: none"> • Difficulty in locating orders. Possible lack of audit trail. • Grant/Loan Approvals issued without appropriate authorisation. • Payments are made without appropriate authorisation. 	<ul style="list-style-type: none"> • Filing system should be improved with a separate folder for each type of order along with its own numbering sequence. A new sequence should be started each year. • Orders should be signed prior to any contract being signed with a landlord. • A CE order should be in place to delegate authorisation to staff that are required to sign CE orders. • A copy of CE order should be submitted as back up for all purchases in excess of €5k. This is in line with the councils procurement procedures. • In cases where the council provides any type of grant or financial assistance, a CE order should be raised. 	<ul style="list-style-type: none"> • Order numbers to commence a new numbering sequence each year. • RAS orders and other housing orders to be filed separately. • Text on orders in housing section to use term “approved” this should be consistent throughout organization. • Review of delegation orders to ensure appropriate authorization at SEO, SEE and Grade VII level. • Orders to authorize execution of contracts to be signed in advance of completion of the contract. • Orders authorizing grant payments to be completed in relation to all awarded grants when agreed by council and in advance of claim not individually

Appendix A – Schedule 15 of the Local Government Act 2001

Functions to be done by Manager's Order

1. A decision on an application under any enactment for the grant of a permission, approval, permit, consent, certificate, licence or other form of statutory authorisation.
2. A statutory notice served under the provisions of any enactment requiring compliance with such enactment.
3. A decision to take legal proceedings.
4. The acquisition or disposal of land or an agreement regarding the use of land.
5. The letting of a dwelling.
6. The acceptance of a tender.
7. The award of grants, loans or other financial assistance.
8. The appointment of staff.

