



Comhairle Cathrach  
& Contae **Luimnigh**

**Limerick** City  
& County Council

Seirbhísí Corparáideacha,  
Comhairle Cathrach agus Contae Luimnigh,  
Ceanncheathrú Chorporáideach,  
Cé na gCeannaithe,  
Luimneach

Corporate Services,  
Limerick City and County Council,  
Corporate Headquarters,  
Merchants Quay,  
Limerick

## **COUNCIL MEETING TO BE HELD ON 5 July 2021**

### **Notice of Motion submitted by Councillor Keary**

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I will move at the next Meeting that all resources and spending by the Limerick 2030 Company be equally divided between City and County in the interest of balanced economic sustainability for both areas.

### **REPLY:**

Limerick Twenty Thirty DAC is an separate legal entity to the Council and in relation to the notice of motion under consideration, our legal advice is what is proposed in the motion would cause a difficulty for the directors of Limerick Twenty Thirty DAC under the Companies Act 2014.

Directors of a company have fiduciary duties under Section 228 of the 2014 Act. The duties are stated in general law, rather than specific terms and as they are derived from Common Law they are not intended to be exhaustive. The duties under Section 228 are owed by the directors to the company and the company alone. There are eight fiduciary duties and they include

- To act in accordance with the company's constitution
- Not to agree to restrict the director's power to exercise an independent judgement, unless this is expressly permitted by the company's constitution
- Exercise the care, skill and diligence which would be expected in the same circumstances by a reasonable person.

It is essential that the rights and duties of directors of a separate legal entity to the Council are not modified in such a way as to put them in apposition of a potential breach of fiduciary duty and thus expose them to a potential personal liability.

Therefore I recommend that notice of motion does not proceed so that the Directors of Limerick Twenty Thirty DAC are not put in a position where they could be liable for a potential breach of fiduciary duty.

Laura Flannery

Meetings Administrator/Senior Executive Officer.

5 July 2021