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# LOCAL AUTHORITY EMERGENCY POWERS IN IRELAND: LEGAL AND INSTITUTIONAL FOUNDATIONS

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## ABSTRACT

*Local authorities in Ireland increasingly confront diverse emergencies - from flooding and severe weather to housing crises and public-health events. Their powers to act are dispersed across multiple statutes, primarily the Local Government Act 2001 (Section 138), the Civil Defence Act 2012, and temporary emergency legislation such as the Emergency Measures in the Public Interest (COVID-19) Act 2020. Yet these powers are constrained by constitutional protections, European human-rights obligations, and administrative law doctrines. This article examines the statutory and institutional framework for local emergency action, situates Ireland within a comparative common-law context, and analyses operational case studies. Detailed discussion of Irish and UK case law - including judicial review of local authority discretion, legitimate expectation, proportionality, and property rights - highlights the legal limits and opportunities for reform. Policy proposals include formal emergency declarations, temporary property acquisition powers, pre-approved procurement frameworks, independent oversight, and integration of civil society actors. The study demonstrates that a coherent legal and operational framework can allow local authorities to respond effectively while respecting rights and democratic accountability.*

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## 1. Introduction

Emergencies are no longer sporadic or isolated events in Ireland; they are increasingly complex and frequent, influenced by climate change, population pressures, and public-health crises. Local authorities occupy a central position in emergency response. They are responsible for rapidly mobilising personnel, coordinating with national agencies such as the Office of Public Works (OPW), Health Service Executive (HSE), and An Garda Síochána, and allocating resources to protect public safety. While these bodies possess a degree of legal authority, the statutory framework underpinning their powers is fragmented and, in certain respects, ambiguous.

The current legal toolkit for local authorities consists of four main elements. First, Section 138 of the Local Government Act 2001 confers broad discretionary powers on the manager (chief executive) of a local authority to act in emergencies without prior council approval.<sup>2</sup> Second, the Civil Defence Act 2012 formalises the role of volunteer units, allowing them to assist local authorities in emergency operations, though the Act provides limited guidance on integration, liability, or property requisition.<sup>3</sup> Third, extraordinary legislation such as the Emergency Measures in the Public Interest (COVID-19) Act 2020 empowered local authorities to act rapidly during the pandemic, but much of the authority exercised relied on administrative discretion rather than clear statutory mandates.<sup>4</sup> Finally, at the supranational level, Decision 1313/2013/EU establishes the EU Civil Protection Mechanism, offering cross-border coordination and shared resources, but without directly providing local authorities with legal powers over property or personnel.<sup>5</sup>

While these frameworks offer a degree of operational flexibility, gaps remain in legal clarity, procedural safeguards, and democratic oversight. There is often uncertainty regarding the extent to which local authorities can requisition property, enter contracts under urgency, or act without explicit temporal limits. Moreover, constitutional protections, human-rights obligations, and principles of administrative law impose additional constraints on emergency action.

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<sup>2</sup> *Local Government Act 2001 (Ireland)*, s 138.

<sup>3</sup> *Civil Defence Act 2012 (Ireland)*, ss 2-10.

<sup>4</sup> *Emergency Measures in the Public Interest (COVID-19) Act 2020 (Ireland)*, ss 2-7.

<sup>5</sup> *Decision 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 establishing the Union Civil Protection Mechanism.*

## 2. Legal Framework for Local Authority Emergency Powers

### 2.1 Local Government Act 2001, Section 138

Section 138 of the Local Government Act 2001 is the cornerstone of local authority emergency powers in Ireland. It empowers the chief executive, or manager, of a local authority to exercise all executive functions immediately when delay would prejudice the public interest.<sup>6</sup> The law explicitly recognises that emergencies demand swift action and allows the manager to bypass normal procedural requirements, including the need to secure prior council approval.

The emergency powers conferred are intentionally broad, allowing the manager to mobilise staff, deploy civil defence volunteers, contract services, and make operational decisions rapidly. Subsection (5) defines an emergency in terms broad enough to include any situation where “works are urgent and necessary ... in order to provide a reasonable standard of accommodation for any person.”<sup>7</sup> This includes temporary shelters, evacuation measures, flood defences, or public-health interventions. The breadth of the definition ensures flexibility but also creates potential for overreach, as the statute provides minimal guidance on the threshold for action or the duration of powers.

The Act imposes limited procedural safeguards. Managers must report actions to the council “as soon as is practicable,” but there is no requirement for a formal declaration of emergency, a fixed timeline for action, or independent review of decisions. Judicial oversight remains a post hoc check: courts may review actions for ultra vires conduct, procedural impropriety, or irrationality. This deferential framework recognises the necessity of rapid action but leaves room for legal uncertainty.

Relevant Irish case law demonstrates the application and limits of Section 138. In *Friends of the Irish Environment v Roscommon County Council* [2022], the High Court reviewed emergency flood-relief works undertaken by a council.<sup>8</sup> Even though the works were urgent, the Court emphasised that compliance with EU environmental law could not be ignored, indicating that emergency powers do not override statutory obligations. Similarly, in *State (Burke) v Lennon* [1940], the Supreme Court upheld the principle that procedural fairness must

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<sup>6</sup> *Local Government Act 2001, s 138(5)*

<sup>7</sup> *Ibid; Civil Defence Act 2012, s 2*

<sup>8</sup> *Friends of the Irish Environment v Roscommon County Council* [2022] IEHC 44.

be maintained even during national emergencies.<sup>9</sup> These cases illustrate that managers must exercise Section 138 powers within the constraints of legality, proportionality, and procedural fairness.

## 2.2 Civil Defence Act 2012

The Civil Defence Act 2012 provides formal recognition for volunteer civil defence units that assist local authorities in emergency situations.<sup>10</sup> Civil Defence volunteers are trained to provide flood rescue, evacuation, welfare centre management, first aid, and logistical support. The Act ensures that volunteers can operate under local authority oversight, receive appropriate training, and are covered by statutory insurance and liability protections.

Despite these formal recognitions, the Act provides limited guidance on how civil defence units should be integrated into operational decision-making or on legal mechanisms for requisitioning property, compensating owners, or funding extended deployments. In practice, this has required local authorities to negotiate ad hoc arrangements when using private buildings for emergency shelters, often relying on temporary leases or voluntary agreements. The absence of clear statutory authority for property use underlines a critical gap in Ireland's local emergency governance.

## 2.3 Emergency Measures in the Public Interest (COVID-19) Act 2020

The Emergency Measures in the Public Interest (COVID-19) Act 2020 provided a temporary legal framework for local and national authorities to address the COVID-19 crisis.<sup>11</sup> Local authorities used the Act to establish emergency accommodation for homeless populations, coordinate with health services, and contract hotels or other facilities for temporary shelter.

Although the Act facilitated rapid administrative action, it did not explicitly grant statutory powers for compulsory acquisition of property. Instead, many actions relied on negotiated contracts and administrative discretion. This approach enabled flexibility but created potential legal risks regarding procurement compliance, liability, and compensation to property owners. Legal scholars have argued that while such measures were justified by necessity, future

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<sup>9</sup> *State (Burke) v Lennon* [1940] IR 136.

<sup>10</sup> *Civil Defence Act 2012 (Ireland)*, ss 2-10.

<sup>11</sup> *Emergency Measures in the Public Interest (COVID-19) Act 2020 (Ireland)*, ss 2-7.

statutory reform should provide clearer powers to avoid ambiguity and potential post-event litigation.

## 2.4 EU Civil Protection Mechanism (Decision 1313/2013/EU)

At the European level, Decision 1313/2013/EU establishes the Union Civil Protection Mechanism to enhance preparedness, coordination, and response to cross-border emergencies.<sup>12</sup> Under the Mechanism, EU Member States may pool resources, including pre-committed modules under rescEU, such as field hospitals, firefighting aircraft, or mobile shelters.<sup>13</sup> These resources can be deployed to support national or local responses when domestic capacities are exceeded.

While the Mechanism does not directly confer powers on local authorities, it has significant operational relevance. Local authorities must be able to interface with national agencies and EU resources during emergencies. This highlights the need for domestic statutory powers that are compatible with EU operational frameworks, particularly regarding property use, contracting, and resource deployment.

## 3. Case-Law Analysis: Judicial Review and Legal Constraints

### 3.1 Constitutional Protections

Irish local authorities operate within the constraints of the Constitution, particularly Articles 40-44 (property rights) and Article 42 (family protection). Actions affecting property or housing must be lawful, necessary, and proportionate.<sup>14</sup> Even in emergencies, local authorities cannot bypass constitutional protections. Illustrative Cases include:

- *Friends of the Irish Environment v Roscommon County Council* - demonstrated that statutory compliance (e.g., environmental obligations) cannot be ignored during emergency works.<sup>15</sup>
- *State (Burke) v Lennon* - affirmed the necessity of procedural fairness even under emergency conditions.<sup>16</sup>

These cases illustrate that while urgency is recognised, local authorities remain bound by constitutional and statutory limits.

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<sup>12</sup> Decision 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 establishing the Union Civil Protection Mechanism.

<sup>13</sup> *Ibid*, Articles 11-12

<sup>14</sup> Constitution of Ireland, Articles 40-44.

<sup>15</sup> *Friends of the Irish Environment v Roscommon County Council* [2022] IEHC 44.

<sup>16</sup> *State (Burke) v Lennon* [1940] IR 136.

### 3.2 Judicial Review Principles

Irish courts review local authority emergency actions on three primary grounds:

1. Ultra vires - whether the authority exceeded its statutory powers
2. Irrationality - whether the decision was unreasonable or disproportionate
3. Procedural impropriety - whether relevant consultation, notice, or reporting obligations were ignored

Such review ensures that even in crises, decision-making is legally defensible.<sup>17</sup>

### 3.3 Comparative UK Case Law

UK jurisprudence provides instructive parallels. In *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* [1948], the court set the standard for irrationality, which remains influential in Ireland.<sup>18</sup> The case of *R v Secretary of State for the Home Department, ex parte Coughlan* [2001] established substantive legitimate expectation: commitments by public authorities create enforceable expectations.<sup>19</sup> The case of the *Council of Civil Service Unions v Minister for the Civil Service* [1985] demonstrated that even broad prerogative powers are subject to judicial review.<sup>20</sup> Additionally, *Liversidge v Anderson* [1942] historically exemplified deference in wartime but is largely considered a cautionary tale in modern rights-based governance.<sup>21</sup> These principles inform the boundaries within which Irish local authorities must exercise emergency powers.

## 4. Operational Context and Examples

### 4.1 Flood Response

During the winter floods of 2015-2016, Cork County Council mobilised 548 staff, including local authority personnel, fire service members, and Civil Defence volunteers, to respond to the rising waters. The Council's Severe Weather Action Team met repeatedly to coordinate efforts, and support was requested from the Defence Forces to assist with evacuations in areas

<sup>17</sup> PILA, *A Guide to the Judicial Review Procedure in the Republic of Ireland* (PILA, 2022) 12-14.

<sup>18</sup> *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* [1948] 1 KB 223.

<sup>19</sup> *R v Secretary of State for the Home Department, ex parte Coughlan* [2001] QB 213.

<sup>20</sup> *Council of Civil Service Unions v Minister for the Civil Service* [1985] AC 374 (GCHQ case).

<sup>21</sup> *Liversidge v Anderson* [1942] AC 206.



such as Bandon and Middleton. These operations illustrated the scale of the local authority response and the reliance on multi-agency coordination in managing severe flooding events.<sup>22</sup>

## 4.2 Housing Crises

During the COVID-19 pandemic (2020-2022), local authorities rapidly contracted hotels and other facilities to provide emergency accommodation for homeless populations. Audit evidence indicates that a large share of emergency-accommodation spending in the period was via private providers with no formal SLAs in place, suggesting arrangement by administrative means rather than under a clear statutory requisition power.<sup>23</sup>

## 5. Comparative Legal Frameworks in Common-Law Jurisdictions

### 5.1 The United Kingdom: Civil Contingencies Act 2004

The Civil Contingencies Act 2004 (CCA) provides one of the most comprehensive models of emergency governance in a common-law jurisdiction, offering lessons for Irish local authorities. Under the CCA, local authorities - classified as Category 1 responders - have clear statutory duties for risk assessment, emergency planning, and inter-agency coordination.<sup>24</sup> Unlike Ireland, the CCA includes detailed statutory guidance on roles, responsibilities, and oversight, which helps balance rapid response with accountability.

Category 1 responders must prepare community risk registers, outlining likely emergencies and the expected response measures. Local authorities must maintain business continuity plans to ensure that essential services continue during crises. The CCA also establishes mechanisms for central government intervention through emergency regulations if local capabilities are insufficient.<sup>25</sup> These regulations are time-limited and subject to Parliamentary scrutiny, ensuring democratic oversight.

Key aspects relevant for Irish reform include: time-limited emergency powers, clear accountability through post-event review and auditing, and integrated risk assessment to reduce ad hoc decision-making.<sup>26</sup>

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<sup>22</sup> *Irish Times*, 'Cork County Council Defends its Flooding Response' (5 January 2016)

<sup>23</sup> *Local Government Audit Service / Dublin City Council, DCC Audit Report 2020* (2 Sept 2021) 9, 12.

<sup>24</sup> *Civil Contingencies Act 2004*, c. 36.

<sup>25</sup> *Ibid*, Part 2, s. 19-21.

<sup>26</sup> *Ibid*, ss. 22-27.

## 5.2 Canada: Emergency Management Act

Canada's Emergency Management Act (2007, federal), alongside provincial legislation, requires municipalities to maintain emergency plans, including risk assessment, resource allocation, and public communication protocols.<sup>27</sup> The Act authorises temporary requisition of private property for emergency use, provided that fair compensation is ensured.<sup>28</sup>

A notable feature is the emphasis on integration between municipal, provincial, and federal levels, ensuring interoperability and coordinated deployment. Lessons for Ireland include the benefits of pre-approved property acquisition procedures and alignment of local and national emergency systems.<sup>29</sup>

## 5.3 Australia: State-Based Emergency Legislation

Emergency powers in Australia are largely devolved to the state level. For instance, the Emergency Management Act 2013 (Victoria) authorises local councils to direct evacuations, commandeer property, and establish emergency shelters when necessary and proportionate.<sup>30</sup> Oversight mechanisms include mandatory reporting to state authorities and the availability of judicial review through tribunals or courts.<sup>31</sup>

Australian law also emphasises community engagement, requiring authorities to maintain emergency registers, conduct public exercises, and issue timely warnings. This ensures that emergency powers are operationally effective and socially legitimate.<sup>32</sup>

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## 5.4 New Zealand: Civil Defence Emergency Management Act 2002

New Zealand's Civil Defence Emergency Management Act 2002 provides a national framework for local emergency powers, including property acquisition, emergency procurement, and volunteer integration.<sup>33</sup> Regional and territorial offices have statutory duties for preparedness, response, recovery, and mitigation.

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<sup>27</sup> *Emergency Management Act, RSC 2007, c. 15, s. 4.*

<sup>28</sup> *Ibid, s. 10-12.*

<sup>29</sup> *Ibid, s. 15; See also Government of Canada, An Emergency Management Framework for Canada, 2020.*

<sup>30</sup> *Emergency Management Act 2013 (Victoria), ss. 21-30.*

<sup>31</sup> *Ibid, ss. 35-37.*

<sup>32</sup> *Ibid, ss. 40-45; See Australian Institute for Disaster Resilience, 'Community Engagement in Emergency Management' (Australian Journal of Emergency Management, Vol 33 No 3, July 2018).*

<sup>33</sup> *Civil Defence Emergency Management Act 2002 (NZ), ss. 6-15.*



The Act introduces a tiered declaration system, distinguishing between local, regional, and national emergencies.<sup>34</sup> This structure allows local authorities to act decisively while maintaining oversight and alignment with higher-level authorities. Lessons for Ireland include the importance of graduated emergency powers and legally bounded authority.

## **6. European Union Law and Cross-Border Coordination**

### **6.1 Union Civil Protection Mechanism**

The EU Civil Protection Mechanism (Decision 1313/2013/EU) facilitates coordinated responses to natural and man-made disasters across Member States.<sup>35</sup> Local authorities are required to cooperate with national authorities, who liaise with the European Emergency Response Coordination Centre (ERCC).

Under this mechanism, rescEU modules - including field hospitals, firefighting aircraft, and mobile shelters - can be deployed to support national emergencies exceeding domestic capacity.<sup>36</sup> Local authorities must plan integration with these resources, including identifying suitable deployment sites and maintaining operational readiness.<sup>37</sup>

### **6.2 Court of Justice of the European Union and the European Commission**

While Ireland has not yet been judged by the CJEU for failing to build flood-defence infrastructure, the European Commission has initiated infringement proceedings under the Floods Directive (2007/60/EC),<sup>38</sup> citing Ireland's failure to finalise its flood-risk management plan. This highlights persistent legal and policy gaps in Ireland's approach to flood risk, particularly around planning, coordination, and flood-mitigation strategy. As of 2025, the proceedings are ongoing, with the Commission emphasising better implementation.<sup>39</sup>

### **6.3 EU Funding and Preparedness Programs**

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<sup>34</sup> *Ibid*, ss. 20-25.

<sup>35</sup> *Decision 1313/2013/EU of the European Parliament and of the Council of 17 December 2013.*

<sup>36</sup> *Ibid*, Articles 5-8.

<sup>37</sup> *Ibid*, Article 6; see European Commission, *Union Civil Protection Mechanism: Operational Guidelines*

<sup>38</sup> *Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the Assessment and Management of Flood Risks [2007] OJ L288/27*

<sup>39</sup> *European Commission, 'Water and Floods: European Commission Decides to Refer Ireland to the Court of Justice of the European Union for Failure to Adopt its Flood Risk Management Plan' (7 February 2024)*

The EU provides financial and technical support for disaster preparedness, including training, infrastructure, and cross-border operational exercises.<sup>40</sup> Effective utilisation requires domestic statutory clarity, particularly regarding property use, contracting authority, and liability management.

## 7. Operational Case Studies in Ireland

### 7.1 Flood Events

Flood events in Ireland have repeatedly exposed significant policy and legal challenges for local authorities. Following the 2015-2016 winter floods, a government-led review of flood response was sharply criticised. Minister of State Sean Canney argued that the report failed to address crucial issues around property rights, home relocation, and compensation mechanisms, prompting officials to revisit the recommendations.<sup>41</sup>

During flood emergencies in County Galway, notably around Connemara in 2022, though reflecting similar issues in the 2018-2019 period, Galway County Council authorised emergency flood-relief works under the 1949 Local Authorities (Works) Act.<sup>42</sup> This decision was subsequently challenged in the High Court by the Friends of the Irish Environment,<sup>43</sup> who argued that the council should instead have sought permission under the 2000 Planning and Development Act.<sup>44</sup> Critics highlighted legal uncertainties about the statutory basis for the works and the absence of full environmental assessment.

### 7.2 Housing Crises

During the COVID-19 pandemic, the DRHE and the four Dublin local authorities rapidly sourced private hotel and short-term accommodation for households experiencing homelessness. For example, the December 2020 update shows that of the 181 families in hotels at end-2020, 65 were in “contracted hotels” and the remainder in self-arranged accommodation. While this response demonstrated significant operational capacity and flexibility in a crisis, it was based on negotiated leases and administrative sourcing rather than formal requisition powers, raising questions about procurement compliance, contractual

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<sup>40</sup> European Commission, *Proposal for a Regulation on the Union Civil Protection Mechanism*, COM(2020) 220 final

<sup>41</sup> Sarah Bardon, *Flooding Report Rejected Over “Inadequate” Recommendations* Irish Times (9 August 2016)

<sup>42</sup> *Local Authorities (Works) Act 1949*, No. 17 IR

<sup>43</sup> *Friends of the Irish Environment CLG v Galway County Council* [2023] IEHC 75.

<sup>44</sup> *Planning and Development Act 2000*, No. 30 IR

liability and the clarity of the statutory framework underpinning such emergency accommodation.<sup>45</sup>

### 7.3 Public Health Emergencies

During the COVID-19 pandemic, local authorities in Ireland operated amid a backdrop of blurred legal frameworks and overlapping powers. According to the IHREC report, the Government frequently conflated legally enforceable public-health regulations with non-binding guidance, and accountability structures—particularly at the local level—were poorly defined. While local authorities participated in compliance measures and public-health advice enforcement, the report highlights a lack of clarity over statutory authority, ambiguous command chains, and uncertain liability. These findings underscore lessons for future emergencies: clearer legislative delineation of powers, stronger reporting mechanisms, and transparent responsibility between national and local bodies are required.<sup>46</sup>

### 8. Integration of Volunteers and NGOs

Effective emergency management relies on civil society actors, including Civil Defence, Red Cross, and community organisations.<sup>47</sup> Statutory recognition under the Civil Defence Act 2012 facilitates deployment, training, and insurance coverage, but coordination often depends on memoranda of understanding and informal arrangements. Comparative models in Canada and Australia show that formal integration enhances accountability, operational coherence, and risk management.

### 9. Lessons from Comparative and Operational Analysis

From the comparative and operational review, several themes emerge:

1. Statutory clarity reduces legal risk - Canada, Australia, and the UK demonstrate that defined powers for temporary property use and contracting mitigate post-emergency litigation.<sup>48</sup>

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<sup>45</sup> *Dublin Region Homeless Executive, Report/Update on COVID-19 and Homelessness - December 2020 (DRHE, December 2020)* 4

<sup>46</sup> *Irish Human Rights and Equality Commission, Ireland's Emergency Powers During the COVID-19 Pandemic (Feb 2021)*

<sup>47</sup> *Civil Defence Act 2012, ss. 2-10.*

<sup>48</sup> *See Emergency Management Act (Canada), s. 10.*

2. Integrated planning is essential - advanced risk registers and planning improve effectiveness while reducing legal exposure.<sup>49</sup>
3. Multi-level coordination is critical - alignment with national authorities and EU resources ensures powers are actionable and effective.<sup>50</sup>
4. Oversight enhances legitimacy - independent review, reporting requirements, and sunset clauses reinforce public trust.<sup>51</sup>
5. Volunteer and community integration is operationally beneficial - formal inclusion improves resources, situational awareness, and social acceptance.<sup>52</sup>

### **10. Identifying Gaps in Current Irish Emergency Powers**

Despite the operational successes of Irish local authorities during floods, housing crises, and the COVID-19 pandemic, legal and procedural gaps remain. Existing frameworks - including Section 138 of the Local Government Act 2001, the Civil Defence Act 2012, and temporary measures under the Emergency Measures in the Public Interest (COVID-19) Act 2020 - provide operational flexibility but lack clarity in several key areas.<sup>53</sup>

Firstly, the absence of a formal declaration process means that emergency powers are invoked on an ad hoc basis, creating legal uncertainty for managers, councils, and affected citizens.<sup>54</sup> There is no statutory mechanism specifying the duration of emergency powers, leaving potential for overreach or retrospective legal challenges. Secondly, while emergency actions may involve temporary property use - such as hotels or community centres for displaced populations - there is no explicit statutory framework for temporary acquisition and compensation, unlike frameworks in Canada, Australia, and the UK.<sup>55</sup>

Thirdly, procurement procedures during emergencies remain partially undefined. Administrative discretion allows rapid contracting, but without clear guidance on thresholds, competitive tendering, or liability, authorities may face legal challenges or accusations of impropriety. Fourthly, the integration of volunteers and civil society actors is not fully codified. While the Civil Defence Act 2012 provides recognition, other organisations - including NGOs

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<sup>49</sup> *Ibid*, s. 4; CCA 2004, s. 2.

<sup>50</sup> *Decision 1313/2013/EU, Articles 5-8.*

<sup>51</sup> CCA 2004, Part 3; *Emergency Management Act 2013 (Victoria)*, ss. 35-37.

<sup>52</sup> *Civil Defence Act 2012*, ss. 3-6; *Australian Institute for Disaster Resilience, Report of the Australian Emergency Management Volunteer Forum 2018 (AIDR 2018).*

<sup>53</sup> *Local Government Act 2001*, ss 138-139.

<sup>54</sup> *Ibid*, s 138(5).

<sup>55</sup> *Emergency Measures in the Public Interest (COVID-19) Act 2020*, ss 2-7.

and community groups - operate in legally grey areas regarding liability, authority, and coordination.<sup>56</sup>

Finally, post-event oversight and reporting requirements are limited. While Section 138 mandates reporting to councils “as soon as is practicable,” there is no obligation for independent audit, public disclosure, or parliamentary review, limiting transparency and accountability. These gaps demonstrate the need for a more coherent legal framework that balances rapid action with legality, oversight, and proportionality.

## 11. Principles for Legal Reform

Drawing from comparative frameworks and operational experience, Irish emergency law should adhere to several guiding principles:

### 11.1 Clarity and Codification

Emergency powers should be clearly codified in statute, detailing the scope of authority, permissible actions, and conditions for invocation. The codification should include clear definitions of “emergency,” specifying circumstances under which local authorities may act without prior approval, and the duration of such powers.<sup>57</sup> Codification reduces uncertainty, mitigates litigation risk, and provides clarity for managers, councils, and the public.

### 11.2 Proportionality and Rights Protection

Even during emergencies, actions must comply with constitutional protections, European law, and human rights obligations.<sup>58</sup> During emergencies such as severe flooding, local authorities in Ireland operate within a complex legal and institutional environment that is not always clearly defined. According to a UCC literature review, the SEM Framework and related structures suffer from overlapping mandates and insufficient clarity about who holds decision-making authority under pressure. This fragmentation raises concerns about proportionality, accountability, and liability: in a crisis, local authorities may act swiftly, but the lack of statutory clarity on their command role, risk-sharing with national bodies, and legal liability underscores the need for reform.<sup>59</sup>

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<sup>56</sup> *Civil Defence Act 2012*, ss 2-10.

<sup>57</sup> *Ibid*; see also *Civil Contingencies Act 2004 (UK)*, s 22.

<sup>58</sup> *Constitution of Ireland*, Articles 40-44; *European Convention on Human Rights*, Articles 8-11.

<sup>59</sup> S Greene, *Literature Review on Enhancing Integration of Disaster Risk Reduction and Climate Change Adaptation in Ireland* (University College Cork, July 2020) 28–30

### 11.3 Integrated Planning and Preparedness

Legal reform should mandate risk assessment, emergency planning, and inter-agency coordination prior to emergencies. Local authorities should maintain community risk registers, business continuity plans, and protocols for volunteer integration.<sup>60</sup> Lessons from the UK Civil Contingencies Act 2004, the Canadian Emergency Management Act, and New Zealand's Civil Defence framework demonstrate that pre-planning improves operational effectiveness while reducing reliance on ad hoc discretion.<sup>61</sup>

### 11.4 Temporary Property Use and Compensation

Statutory authority should explicitly allow temporary use or requisition of property for emergency accommodation or operations, with clear compensation mechanisms.<sup>62</sup> Comparable frameworks in Canada and Australia ensure legal clarity and fairness for property owners, while maintaining operational capacity for local authorities.<sup>63</sup>

### 11.5 Oversight, Reporting, and Sunset Clauses

Emergency powers should include mandatory reporting to councils, independent audit, and potential parliamentary or ministerial review.<sup>64</sup> Sunset clauses for temporary powers ensure that extraordinary measures expire automatically unless renewed under specific conditions, safeguarding democratic oversight and public confidence.

## 12. Proposed Legislative Model for Ireland

A consolidated legislative model could unify and codify emergency powers across local authorities, integrating insights from comparative jurisdictions:

1. Emergency Declaration Framework - Local authorities may formally declare emergencies, specifying scope, duration, and affected geographic areas.<sup>65</sup>

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<sup>60</sup> *Civil Contingencies Act 2004*, ss 1-2; *Emergency Management Act 2007 (Canada)*, s 4; *Civil Defence Emergency Management Act 2002 (NZ)*, ss 6-15.

<sup>61</sup> *Ibid.*

<sup>62</sup> *Emergency Management Act 2007 (Canada)*, ss 10-12; *Emergency Management Act 2013 (Victoria)*, ss 21-30.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Local Government Act 2001*, s 138; *Civil Contingencies Act 2004*, Part 3.

<sup>65</sup> *Ibid.*



2. Temporary Property Acquisition Powers - Managers may temporarily requisition property, with statutory guidance on compensation and liability.<sup>66</sup>
3. Integrated Planning Requirements - Risk registers, continuity plans, and multi-agency coordination plans become statutory obligations.<sup>67</sup>
4. Volunteer and NGO Integration - Clear statutory provisions recognise and regulate the role of civil defence and voluntary organisations, clarifying authority and liability.<sup>68</sup>
5. Oversight and Review - Reporting obligations, independent audits, and sunset clauses ensure proportionality and accountability.<sup>69</sup>

This model balances the need for operational flexibility with legal certainty and democratic legitimacy, addressing gaps identified in Parts 1 and 2.

### 13. Policy Implications and Practical Considerations

#### 13.1 Emergency Procurement

Statutory guidance should permit flexible but accountable procurement during emergencies, including expedited tendering and pre-approved supplier frameworks.<sup>70</sup> By codifying procurement discretion, authorities reduce legal risk while maintaining rapid operational capacity.

#### 13.2 Multi-Level Coordination

Emergency powers should integrate local, national, and EU-level resources.<sup>71</sup> Protocols should clarify the role of national authorities, coordination with rescEU modules, and engagement with cross-border agencies.<sup>72</sup> This ensures that local authorities can respond effectively while remaining legally compliant with EU directives.

#### 13.3 Communication and Public Engagement

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<sup>66</sup> *Ibid.*

<sup>67</sup> *Civil Defence Emergency Management Act 2002 (NZ)*, ss 6-15.

<sup>68</sup> *Civil Defence Act 2012*, ss 3-6; *Australian Institute for Disaster Resilience, Report of the Australian Emergency Management Volunteer Forum 2018 (AIDR 2018)*.

<sup>69</sup> *Local Government Act 2001*, s 138; *Civil Contingencies Act 2004*, s 35.

<sup>70</sup> *Civil Contingencies Act 2004*, s 22-27; *Emergency Measures in the Public Interest (COVID-19) Act 2020*, s 4.

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid*, Articles 5-8; *European Commission, Proposal for a Regulation on the Union Civil Protection Mechanism, COM(2020) 220 final*.

Authorities must maintain transparent communication strategies during emergencies, informing affected communities about decisions, rights, and recourse.<sup>73</sup> Clear communication reduces confusion, supports compliance, and reinforces public trust.

### 13.4 Training and Simulation

Local authority managers and volunteers should undergo regular training, tabletop exercises, and scenario-based simulations to prepare for emergencies.<sup>74</sup> Simulation exercises improve decision-making, clarify authority boundaries, and reduce operational errors during actual events.

### 14. Lessons from Comparative Jurisdictions

Comparative analysis of UK, Canadian, Australian, and New Zealand frameworks highlights several transferable lessons:

- Time-limited, clearly defined powers reduce legal ambiguity and enhance accountability.<sup>75</sup>
- Statutory property requisition with compensation ensures fairness and operational effectiveness.<sup>76</sup>
- Integrated volunteer frameworks enhance operational capacity while reducing liability risk.<sup>77</sup>
- Mandatory reporting and sunset clauses strengthen public legitimacy and transparency.<sup>78</sup>

These lessons underscore the feasibility of designing an Irish framework that is both operationally effective and legally robust.

### 15. Conclusion

Irish local authorities have demonstrated operational resilience and flexibility in responding to floods, housing crises, and public-health emergencies. However, the current legal framework

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<sup>73</sup> *Civil Contingencies Act 2004*, s 2; *Emergency Management Act 2007 (Canada)*, s 4.

<sup>74</sup> *Civil Defence Act 2012*, ss 4-6; *Civil Defence Emergency Management Act 2002 (NZ)*, s 10.

<sup>75</sup> *Civil Contingencies Act 2004*, Part 3; *Emergency Management Act 2007 (Canada)*, s 10.

<sup>76</sup> *Emergency Management Act 2007 (Canada)*, s 10; *Emergency Management Act 2013 (Victoria)*, ss 21-30.

<sup>77</sup> *Civil Defence Act 2012*, ss 3-6; Australian Institute for Disaster Resilience, *Report of the Australian Emergency Management Volunteer Forum 2018 (AIDR 2018)*.

<sup>78</sup> *Civil Contingencies Act 2004*, s 35; *Local Government Act 2001*, s 138.

is fragmented, ambiguous, and partially reliant on administrative discretion. Reform should codify emergency powers, define property requisition and compensation mechanisms, mandate integrated planning and volunteer coordination, and include oversight and sunset provisions. By drawing lessons from comparative common-law jurisdictions and EU frameworks, Ireland can create a coherent, accountable, and legally defensible system that balances rapid response with protection of constitutional and human rights. Implementation of such reforms would provide clarity for managers, councils, and volunteers, reduce legal exposure, and enhance public confidence in emergency response.

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