



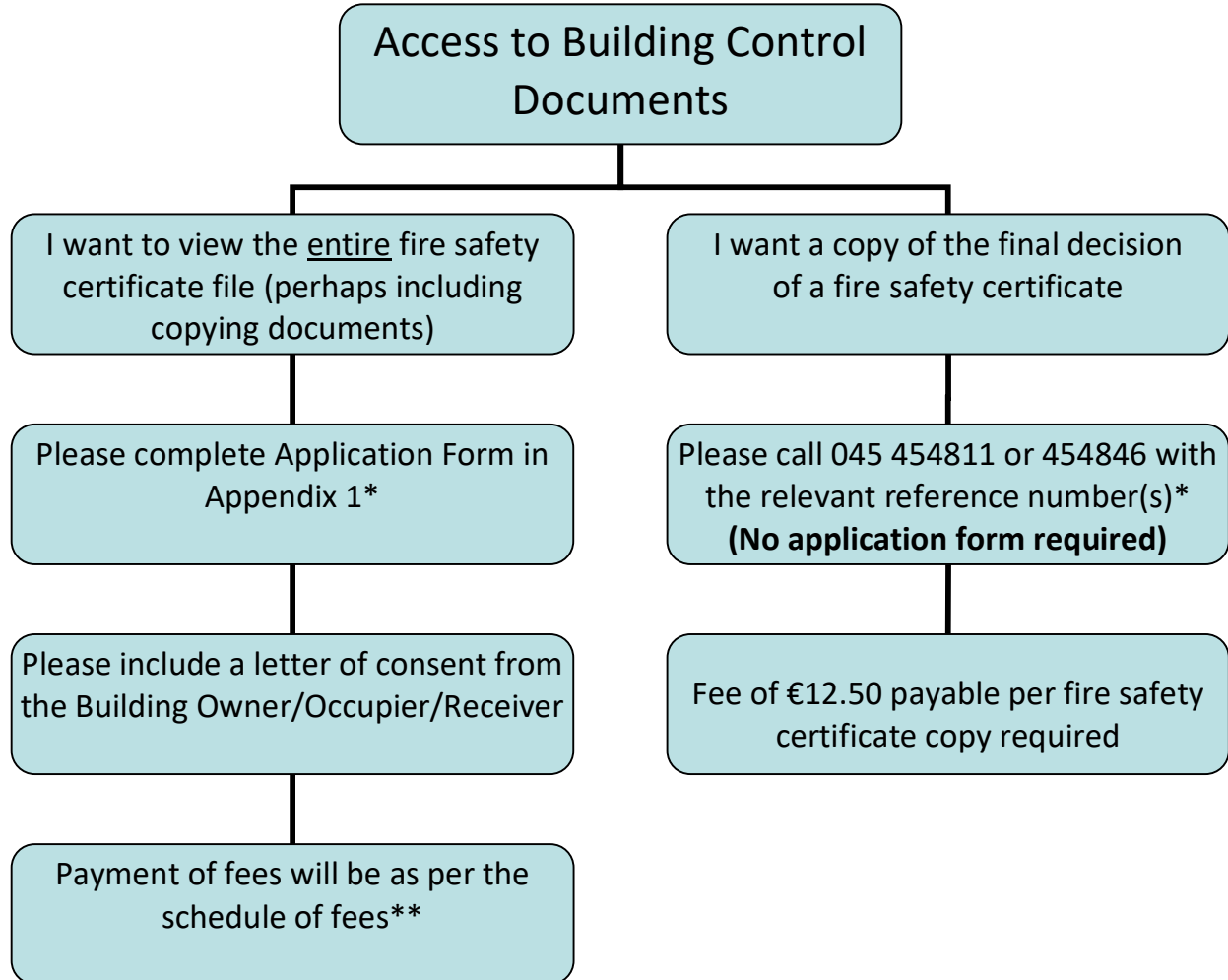
# Kildare Fire Service

## Policy on Public Access to Building Control Documents

<b>Document Title</b>	Kildare Fire Service Policy on Public Access to Building Control Documents		
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<b>Approved for issue by:</b>	Celina Barrett Chief Fire Officer	<b>Date:</b>	25/10/19

## What do you want to do?

Below is a step by step guide to ensure you are following the correct procedure;



\* Once a request has been received to view or copy a file, the applicant is liable for payment of the required fee.

\*\*If copies of drawings are required, the required fee can only be calculated once the amount/types of copies are known. Therefore the combined fee (for viewing and copying) may be paid upon completion of copying. One invoice will therefore be issued.

The applicant has 30 days to arrange to view or copy the file(s) requested. The file(s) will be returned to archive after the expiration of 30 days. Any requests for the same file after 30 days will be treated as a new application and the appropriate fee applied.

## **Introduction**

Circular Letter BC 1/2005 which replaces Circular Letter BC 12/04 sets out **National Policy on Public Access to Building Control Documentation**. Circular Letter BC 1/2005 is attached at Appendix 2 for reference. This policy document outlines Kildare Fire Service's procedures for complying with CL BC 1/2005 and ensuring appropriate public access to Fire Safety Certificate application files which form part of the suite of Building Control Documentation.

## **Public Access to Fire Safety Certificate Documents**

The Freedom of Information (FOI) Act, 2014, which applies to Local Authorities, reinforces the right of access to public records, subject to qualified exemptions e.g. in the case of commercially sensitive and personal information.

In accordance with the Local Government Management Agency (LGMA) 'National Retention Policy for Local Authority Records', all Local Authorities are required to maintain fire safety certificate records for a period of five years. Although Kildare Fire Service maintains an archive of fire safety certificates dating back to 1992, some records greater than five years old may not be available due to circumstances beyond our control.

Kildare Fire Service will allow the public access to view Fire Service fire safety certificate application files **by prior appointment**. Photographing of material is **strictly prohibited**.

A maximum of six files may be viewed at any one time. In excess of six files may be viewed at the discretion of Kildare Fire Service. Fees apply to viewing and copying of files, and these are detailed in Appendix 1. Once the applicant has been notified that the documents are available for inspection or copying, the applicant is then liable for payment of the required fee.

In some instances, the file requested may not be available. In this case no fee will be charged to the applicant and any fees already paid will be refunded.

## **Viewing and Copying Documents**

Where a member of the public requests to view or copy documents, they should follow the above step-by-step guide.

The application form required for access to the entire fire safety certificate file, includes the required '*Declaration*' that the material is required for the sole purpose of inspecting the material at another time and place. This '*Declaration*' must be signed before the copies are issued (in either hard or soft format).

Photographing of material is strictly prohibited as all copies of maps, drawings plans etc. that are to be issued must be stamped with the following wording:

***"This document is for inspection purposes only and no other use can be made of the material without the consent of the copyright owner"***

**Maps**

Members of the public can be given copies of maps received with Fire Safety Certificate applications provided the OSI maps are stamped originals or are copies showing a copyright licence number.

**Outstanding Invoices**

Requests to view files will only be honoured once all outstanding invoices have been settled.

**Time Limit**

Once the applicant has been notified that their file(s) are available, the applicant has 30 days to arrange to view or copy the file(s) requested. The file(s) will be returned to archive after the expiration of 30 days. Any requests for the same file after 30 days will be treated as a new application and the appropriate fee applied.

Once copied documents have been sent by email to, or downloaded by, the applicant, any subsequent request for the same files will incur a fee (as per the scale of fees for copying documents). Similarly, if copied documents have been sent to the applicant by post, after 30 days, subsequent requests for the same files will incur a fee (as per the scale of fees for copying documents).

## Appendix 1

### APPLICATION FOR VIEWING AND COPYING OF BUILDING CONTROL DOCUMENTS

*(Not required to be completed if a copy of the final decision of a fire safety certificate is only required)*

**To: Chief Fire Officer,  
Kildare Fire Service,  
Central Fire Station,  
Newbridge,  
Co. Kildare  
W12 PW70**

I, \_\_\_\_\_ of \_\_\_\_\_  
(NAME OF PERSON) (COMPANY & ADDRESS)

Telephone no: \_\_\_\_\_ Email Address: \_\_\_\_\_

wish to obtain from Kildare County Council (upon providing written consent from the person whose Premises the request relates (e.g. Owner/Occupier/Receiver), the following material:-

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(BRIEFLY DESCRIBE THE MATERIAL BEING REQUESTED)

Which formed part of the Fire Safety Certificate application/decision

**Reference No. in Register:** \_\_\_\_\_

**Brief Description:** \_\_\_\_\_

**Name of Applicant:** \_\_\_\_\_

**I hereby declare that the material is required for the sole purpose of enabling the material to be inspected at another time or place or otherwise facilitate the exercise of the right of public inspection and that no other use will be made of the material without the licence of the copyright holder in accordance with Section 74 of the Copyright and Related Rights Act, 2000. I undertake to comply with all the terms of the 'Policy on Access to Building Control Documents'. I also declare that I will not take photographs of any material contained within files. I also undertake to settle any invoice issued in relation to this application within 30 days.**

Signed: \_\_\_\_\_ Fee: € \_\_\_\_\_  
(SIGNATURE OF THE PERSON MAKING THE APPLICATION)

Date: \_\_\_\_\_

**Kildare County Council** hereby grants access as requested and stamps all relevant documents (plans, maps, drawings) with a stamp indicating the documents are for inspection purposes only and that no other use can be made of the material without the licence of the copyright holder.

Stamp of Kildare County Council

Signed: \_\_\_\_\_  
(SIGNED ON BEHALF OF KILDARE COUNTY COUNCIL)

Date: \_\_\_\_\_

### **SCALE OF FEES FOR VIEWING FIRE SAFETY CERTIFICATE FILES**

Up to six files may be viewed at any one time at the following fee;

One file	€50
Second & subsequent files	€5 per file

In excess of six files may be viewed at the discretion of Kildare Fire Service. After six files, the charge reverts to €50 for the seventh file and €5 for the eighth and subsequent files up to the twelfth file, and so on.

### **SCALE OF FEES FOR PURCHASE OF DOCUMENTS (Copied or scanned)**

<b>Maps/ Drawings</b>	<b>Cost</b>
A0	€5.00
A1	€5.00
A2	€5.00
A3	€0.50
A4	€0.15

#### **Reports/Application Forms etc.**

Compliance Report copies	€0.15 per A4 sheet to a maximum of €12.50
Other forms/reports	€0.15 per A4 sheet

#### **Fire Safety Certificate final decisions**

In accordance with the Fifth Schedule of the Building Control Regulations, the cost of a copy of a decision on a Fire Safety Certificate is €12.50 per document (copied or scanned)

#### **Additional Copies (hard copies or scans)**

If additional copies of files/drawings are required subsequent to the original request, an additional fee is required to be paid. If the file is still available, the fee to copy will be as per the scale of fees above. If the file has been returned to storage, the fee is as per the fee for viewing listed above, in addition to the cost per document to copy.

## **Appendix 2**

Circular Letter: BC1/2005  
28<sup>th</sup> February 2005

### **Re: Public Access to Building Control Documentation**

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#### **Circular BC 12/2004**

1. I am directed by the Minister for the Environment, Heritage and Local Government to refer to Circular Letter BC 12/2004 dated 21 October 2004 on the above subject.
2. The Department has received a number of enquiries from local building control authorities seeking clarification in regard to access to *copyright and building security implications* of access to, and copying of, documentation on building control files in local building control authorities.
3. Accordingly, the Department is issuing this revised and expanded Circular Letter in lieu of Circular Letter BC 12/2004, which is hereby withdrawn.

#### **Building Control Regulations 1997 (SI No 496 of 1997)**

4. Under Article 21(1) of S.I. No. 496 of 1997, building control authorities are required to maintain and update a Register which includes particulars for particular buildings relating to -
  - Commencement Notices
  - Fire Safety Certificate Applications
  - Dispensations/Relaxations
  - Outcome of Appeals to District Court (Enforcement Notices); and
  - Outcome of Appeals to An Bord Pleanala (Fire Safety Certificates)
5. Under Article 21 (2), the Register must be kept at the offices of the building control authority and must be available for inspection during office hours.

#### **Freedom of Information Act (FOI) 1997**

6. The Freedom of Information Act 1997 – which applies to local authorities since 21 October 1998 – reinforces the right of access to public records, subject to *qualified exemptions* e.g. in the case of records which contain “commercially sensitive information” (Section 27) or information which “could be expected to prejudice or impair ... lawful methods, systems, plans or procedures for ensuring the safety of the public and the safety or security of persons or property” or “the security of a building or other structure...” (Section 23).
7. Section 13 of the FOI Act provides for partial access to records in specified circumstances.

8. It is for each Local Authority to decide what records are exempt from the FOI Act, having regard to overriding “*public interest*” *qualification* applicable to certain exemptions i.e. where the “public interest would, on balance, be better served by the granting than by refusing the request concerned”.

### **Copying**

9. Appropriate building control documentation should be available for inspection and copying (at a charge to cover the cost), by or on behalf of interested parties, during normal office hours.

### **Copyright and Related Rights Act 2000**

10. Sections 74 to 77 and Sections 237 to 241 of the 2000 Act deal with copyright in the context of Public Administration.
11. Section 74 (2) provides that *where material is open to public inspection pursuant to a statutory requirement, or is on a statutory register, the copyright in the material is not infringed by the copying or making available to the public of that material for the purpose of making that material available for inspection at another time and place, or otherwise facilitating the exercise of any right for the purpose of which the requirement is imposed*, by or with the authority of the person required to make the material open to public inspection or as the case may be the person maintaining the register.
12. Section 74 (3) provides that where material is made available to the public under this section, the person granting the access to the material shall ensure that it *bears a mark* clearly indicating that it provided for the purposes of inspection and that no other use of the material may be made without the licence of the copyright holder.
13. Section 74 (4) states that material may not be provided under this section unless the person granting access to the material has obtained from the person requesting the material a *declaration*, in such form as may be prescribed, indicating that the material is required for the sole purpose of enabling the material to be inspected at another time and place or otherwise facilitate the right of public inspection.
14. Having regard to the provisions of the Copyright and Related Rights Act 2000, it is recommended that-
  - 1) the local building control authority *stamp* each document (including maps, drawings, and plans) to be made available incorporating wording along the lines that:  
***“This document is for inspection purposes only and no other use can be made of the material without the consent of the copyright owner”***; and



- 2) The person wishing to copy such documentation must sign a Declaration that the material is required for the sole purpose of inspecting the material at another time and place.
15. Accordingly, it is recommended that each building control authority should have available –
    - (1) a stamp, and
    - (2) Declaration form

As recommended in the preceding paragraph.

16. Section 240 of the 2000 Act mirrors the provisions of section 74 of the same Act as regards material open to public inspection or on a statutory register.

#### **Maps**

17. Ordnance Survey Ireland (OSI) has advised this Department that local building control authorities can give to members of the public copies of maps received with Fire Safety Certificate applications ***provided the OSI maps are stamped originals or are copies showing a copyright licence number.***

#### **General**

18. Section 45(c) of the 2000 Act provides that a person infringes the copyright in a work where he or she, without the licence of the copyright owner, in the course of a business, trade or profession, has in his or her possession, custody or control, or makes available to the public, a copy of the work which is, and which he or she *knows or has reason to believe is, an infringing copy of the work.*
19. Accordingly, it appears that if a building control authority accepts into public records, or makes available to the public, copies of infringing copyright material, where they know or have reason to believe that it is infringing copyright material, then they may be in breach of the 2000 Act.

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Michael McCarthy  
Principal Officer  
Building Standards/  
Environmental Assessment

- To each Building Control Authority
- To each Building Control Officer
- To each Chief Fire Officer