



A Reference Book for the Freedom Of Information Act

Issued By Kilkenny County Council and Kilkenny Corporation

1. GENERAL INTRODUCTION

Introduction to Freedom of Information Act.

The Act establishes three new statutory rights:

- **A legal right** for each person to access information held by public bodies:
- **A legal right** for each person to have official information relating to him/herself amended where it is incomplete, incorrect or misleading.
- **A legal right** to obtain reasons for decisions affecting oneself.

This Act asserts the right of members of the public to obtain access to official information to the greatest extent possible consistent with the public interest and the right to privacy of individuals.

This Reference Book is prepared in accordance with the requirements set out in section 15 of the Freedom of Information Act, 1997. It is intended as a practical guide to Kilkenny Corporation, to assist you in ascertaining official information which we hold and how you can access it. It does this by outlining the structure of the Council; the services provided and how they may be availed of; the classes of records held; and how a request to the Council under the FOI Act, 1997 can be made.

Public Access to Information Outside F.O.I. Act.

Routinely available Information :

At present the Council makes a range of information available to the public in relation to its functions, activities and schemes. Such information will continue to be made available without the need to use the FOI Act. This reference book highlights, in relation to each of the Council's activities, where information of this nature is available. In general, information leaflets are available free of charge from any of the Council's offices, while reports, guides, and documents on programmes may be obtained from the relevant section of the Council.

Environmental information is available from ENFO - the environmental information service of the Department of the Environment. Information leaflets on a range of environmental subjects, including leaflets for children, are available from ENFO, the Environment Office of Kilkenny Corporation and in the public libraries.

There is also an extensive database of references available in the ENFO library. ENFO's Website at www.enfo.ie contains information on ENFO's services, and provides access to the full text of the leaflets and the reference database. ENFO is located at 17 St. Andrew St., Dublin 2 and is open to the public from 10.00 a.m. to 5.00 p.m. Monday to Saturday, excluding public holidays. (telephone: (01) 6793144, Fax: (01) 6795205, e-mail: info@enfo.ie). ENFO services are provided free of charge.

Kilkenny Corporation/ DOELG and ENFO publications are listed in Appendix A.

Information available under other legislation:

The public already enjoys the right to a range of information under other legislation. e.g PlanningLaw. This right will remain unchanged and such information should be accessed through the appropriate channel **before** an FOI request is considered.

Access to Information on the Environment Regulations, 1998

The Council also makes information available under the Access to Information on the Environment Regulations, 1998. Under these regulations, requests can be made to a public authority for access to information on the environment, other than information held in connection with, or for the purposes of, any judicial or legislative function. The regulations do not apply to information which must be made available for inspection under other statutes.

Requests for information under the Access to Information on the Environment Regulations, must be made in writing to the relevant public authority, stating in as specific terms as possible the information required. Further information on these regulations is available from the Council's Environment Section.

The Data Protection Act 1988:

Kilkenny Corporation is registered as a Data Controller under the Data Protection Act 1988. The provisions of this Act still apply and a request in relation to data covered by this Act, may be made under **either** The Data Protection Act **or** The Freedom of Information Act.

The Freedom of Information Act is designed to allow Public access to information which is **NOT** routinely available through other means. Access to information under the Act is subject to certain exemptions and involves specific procedures and time limits. Information on making a request is set out in Part 3 of this Chapter.

S.16 Document for Freedom of Information

A separate document has also been prepared by the Council to assist the public in exercising their rights under the FOI Act; this highlights the legislation (Acts of the Oireachtas/Regulations) governing the provision of local authority services. This document also contains references to the relevant guidelines/rules (e.g. DOELG Circulars etc.) and any local policy documents practices or precedents in relation to the matter.

Council Website:

FOI Details are contained in the Council's Website (www.kilkennycoco.ie) i.e. S.15 and S.16 Documents, FOI Application Forms/Leaflets etc. This Website also contains general information and details of Council events/notices etc. which are of relevance to the general public.

2. How to apply for information under the Freedom of Information Act.

2.1 Applications under the Freedom of Information Act

Under the FOI Act, anyone is entitled to apply for access to information **not otherwise publicly available**.

Each person has a right to :

- **access to records held by Kilkenny Corporation**
- **seek correction of personal information relating to oneself, held by Kilkenny Corporation where it is inaccurate, incomplete, or misleading.**
- **access to reasons for decisions made by Kilkenny Corporation directly affecting yourself.**

The following records come within the scope of the Act ;

- **all records created after commencement of this Act** i.e. 21st October 1998
- **such records created before that date** as may be required to understand records created after commencement of the Act.
- **personal records** regardless of when created.

In the case of staff members, **personnel records** created from a date 3 years before commencement of the Act i.e. 21st October 1995.

Requests for information under the FOI Act should be addressed to

**Mr J. Gibbons
Freedom of Information Officer,
Kilkenny County Council,
County Hall,
John Street,
Kilkenny.**

Phone : (056) 52699

Fax : (056) 63384

E-Mail : secretar@kilkennycoco.ie

Your request should be in writing (request sent by Fax or E-mail to the number/address indicated above is acceptable) and should indicate that the information is sought under the Freedom of Information Act.

If you wish to receive the information in any particular form e.g. photocopy , computer disk etc., you should indicate this in your request. Please give as much detail as possible to enable us to identify the records to which you require access. If you have difficulty in identifying the precise records which you require, we will be happy to assist you in preparing your request.

The Council will issue acknowledgement of your request **within two weeks** of receiving it. The Council will make a decision on your request **within four weeks** of our receiving it unless the request relates to such number of records that compliance within the specified time is not reasonably possible, in which case a time extension not exceeding **a further four weeks** may be allowed. You will be notified of the period of the time extension required and the reasons therefor.

2.2 RIGHTS OF REVIEW AND APPEAL.

The FOI Act sets out a series of exemptions to protect sensitive information where its disclosure may damage key interests of the State or of third parties. Where the Council invokes these provisions to withhold information, the decision may be appealed. Decisions in relation to deferral of access, charges, form of access etc. may also be appealed.

Details of these appeal mechanisms are as follows:

2.3 INTERNAL REVIEW:

Applicants may seek Internal Review of the initial decision , which will be carried out by an official at a higher level if:

- ⇒ you are dissatisfied with the initial response received i.e. refusal of information, form of access, charges etc., or,
- ⇒ you have not received a reply **within four weeks** of your initial application. This is deemed to be a refusal of your request and allows you to proceed to Internal Review.

Requests for Internal Review should be submitted **within four weeks** of the initial decision in writing to :

Mr Philip O'Neill
Freedom of Information (Internal Review) Officer,
Kilkenny County Council,
County Hall,
John Street,
Kilkenny.
Phone : (056) 52699
Fax : (056) 63384
E-Mail : secretar@kilkennycoco.ie

Kilkenny County Council must complete the review **within three weeks**. An Internal Review must normally be completed before an appeal may be made to the Information Commissioner.

2.4 REVIEW BY THE INFORMATION COMMISSIONER:

Applicants may seek independent review by the Information Commissioner if :

⇒ following completion of the Internal Review procedure , you are dissatisfied with the decision; or,

⇒ you have not received a reply to your request for Internal review **within 3 weeks** of your application. This is deemed to be a refusal and you may appeal the matter to the Commissioner.

Appeals in writing may be made directly to the Information Commissioner at the following address:

**Office of the Information Commissioner,
18 Lower Leeson Street,
Dublin 2.**

Phone : (01) 6785222

Fax : (01) 6610570

E-Mail : ombudsman@ombudsman.irlgov.ie

2.5 FEES/CHARGES for Freedom of Information Requests

1. Personal Information Requests;

a) Shall be charged at the rate of £16.50 per hour, or part thereof, for requests requiring dedication of a search and retrieval time equal to, or greater than, one hour.

b) Charge shall be waived in circumstances when the request requires the dedication of a search and retrieval time of less than one hour.

c) No photocopying fee shall arise in hardship cases.

2. Non- Personal Information Requests;

These requests shall be charged for at the rate of £16.50 per hour, or part thereof, for all such requests requiring the dedication of a search and retrieval time of 15 minutes or more.

3. Photocopying:

All photocopying sheets required in compliance with an FOI request shall be charged at the rate of 3p per sheet where the amount produced exceeds 35 sheets.

4. No charges may be made in respect of photocopying and retrieval where the total charge involved would be less than £5.00.

STATEMENT OF POLICY ON CONFIDENTIALITY AND FREEDOM OF INFORMATION

Kilkenny County Council undertakes to hold any information provided to it by individuals or others on a confidential basis, subject to the Council's obligations under law, including the Freedom of Information Act. If, for any reason, it is wished that information provided to the Council should not be disclosed because of its sensitive nature, then it is incumbent upon the person or body when supplying the information to make clear this wish and to specify the reasons for the information's sensitivity. Kilkenny County Council will consult with any individual or body so supplying sensitive information before making a decision on any Freedom of Information request received.