

Information Note on Funding Letter Required to be Submitted Along with Applications for Archaeological Excavation Licences

Introduction

Since the beginning of 2017 applications for licences to carry out archaeological excavation have been required to be accompanied by a letter from the person or body funding the excavation confirming that sufficient funds and other facilities are available to the applicant for the licence to complete the archaeological excavation, post-excavation, and preliminary and final reports (including specialist reports).

From 1 January 2019 this letter will have to be in accordance with a template appended to the archaeological excavation licence application form coming into use from that date. This template is as follows:

To [INSERT NAME OF APPLICANT] and [INSERT NAME OF FIRM, IF ANY, OF WHICH APPLICANT IS AN EMPLOYEE],

On behalf of [INSERT NAME OF COMPANY OR OTHER BODY OR DELETE AS APPROPRIATE], I confirm that in the event of [INSERT NAME OF APPLICANT FOR LICENCE] being granted a licence to carry out archaeological excavation at [INSERT LOCATION OF PROPOSED ARCHAEOLOGICAL EXCAVATION] in accordance with the application she or he has submitted to the National Monuments Service and which this letter accompanies, I [OR NAME OF COMPANY OR BODY WHERE APPROPRIATE] will provide or ensure are available to her or him or his employer (as appropriate) sufficient funds and other facilities to allow her or him to complete the archaeological excavation and associated post-excavation work, including preparation of preliminary and final reports (including specialist reports) to the standard required under the licence, if granted.

Yours etc.

The requirement to provide a letter in the above form will be insisted on in regard to all applications for archaeological excavation licences from 1 January 2019. In the event that a letter in the appropriate format is not provided, applicants should not expect to be granted an archaeological excavation licence in respect of the relevant application. Any delay resulting from failure to submit along with the application form when first submitted a letter which is in accordance with the template will be considered the responsibility of the applicant.

The following notes are provided so as to assist applicants in complying with the requirement to provide a letter in accordance with the template, and also to assist in explaining the position to the persons or bodies who will need to provide the letter.

Reasons for the requirement to submit a letter in accordance with the template

A licence, if issued, will issue to the applicant, who will become the licensee under it. No other party than the licensee is bound by the conditions of such a licence, other than insofar as the licensee has entered into a contract with another party which requires that party to support or assist the licensee in complying with his or her licence obligations. It is of the utmost importance that an applicant understands this and that the National Monuments

Service will, for example, have no powers under the National Monuments Acts to require any other party to fund the fulfilment of licence conditions.

Applicants therefore need to ensure that they have in place before commencing any excavation work appropriate and enforceable contractual arrangements with the person or body which has engaged them to carry out the excavation. The template letter is intended to assist the applicant and the person or body which has stated to the applicant that it will fund the project in understanding the above and in putting in place such contractual arrangements.

Applicants should not, however, assume that completion and signing of the letter will be sufficient to put the necessary contractual arrangements in place. They should, in particular, agree comprehensive and detailed funding and payment arrangements with the relevant other party or parties. Independent legal advice should be sought by applicants as necessary to ensure that the necessary contractual arrangements are in place to enable them to meet their obligations as licensees.

As part of this, applicants should consider putting in place arrangements under which funds for the carrying out of post-excavation work are secured even in the event of the person or body which engaged them running into financial difficulties.

Completing the template letter

Note that letter must be addressed not alone to the applicant for the archaeological excavation licence but also to that person's employer if he or she is an employee of a firm providing archaeological services. Conversely, it will not be sufficient for the letter to be addressed to the applicant's employer, it must also be addressed to the applicant.

If the person funding the proposed archaeological excavation is a natural person (i.e. an actual human person as opposed to legal person such as a company) acting in their own behalf, then the clause "On behalf of [INSERT NAME OF COMPANY OR OTHER BODY OR DELETE AS APPROPRIATE]," should be deleted.

Where the person funding the proposed archaeological excavation is a legal person (e.g. company), the applicant should take care to ensure that the person signing the letter is someone who could reasonably be regarded as having sufficient authority to do so.

**National Monuments Service
Department of Culture, Heritage and the Gaeltacht
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