



EIR Ref: 2018-001

1 May 2018

REQUEST FOR REVIEW OF DECISION UNDER ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004 (the “Regulations”)

Information Request

On 9 January 2018 you made the following request for information,

“Dear Mr Jones/Governance Manager,

Further to my information request which is currently subject to a Review (EIR 2017-076) and the Board's Update report for Ministers, I would like to submit an information request for further information relating to the operation and review of the camping byelaws in their first year. I had hoped that some of this information would have been published as part of the Review Report for Ministers while other requests have been prompted by it. Should the LLTNPA be willing to be open about the information it holds, I would be happy to amend my request in order to make the processing easier for all of us, but if not would like to proceed with the request as set out below:

- 1) All information the LLTNPA holds in relation to the stakeholder forum held in November 2017 (apart from personal data relating to invitees) Including: any invitation letter/agenda; attendance; notes or minutes of the meeting; copies of presentations/handouts.*
- 2) Documentation relating to the Monitoring Framework referred to in paragraph 4.6 of the report (if there is one document describing the monitoring framework that would be sufficient but if not I would request all information the LLTNPA holds that would enable a member of the public to understand what is being monitored.*
- 3) If not included above, the number and locations of the following referred to in paragraph 6.2 of the Board Report and any information the LLTNPA holds on how they were chosen*

LOCH LOMOND & THE TROSSACHS NATIONAL PARK AUTHORITY

National Park Headquarters, Carrochan, Carrochan Road, Balloch, G83 8EG Long: 4°34'24"W Lat: 56°00'12"N
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(including how existing impacts could be attributed to camping rather than other recreational uses):

- *Monthly fixed point photography of camping areas*
- *Sites chosen for vegetation surveys*
- *Sites chosen for water sampling*

4) A list of all groups surveyed as referred to in 6.2 of the Board Report and copies of the survey questions (excluding feedback on the camping permit system which has partly been provided and is partly subject to EIR 2017-076 Review).

5) The number of complaints the LLTNPA dealt with in 2017 under your complaints process and of these the number that were in whole or part about the camping byelaws broken down by application of the camping byelaws, the state of the camping permit areas, the operation of the permit system, the state of the Loch Chon campsite and the operation of the permit system for the Loch Chon campsite

6) Information on warnings.

- *Guidance to staff on the operation of the warning system*
- *Of the 828 people warned for breach of the camping byelaws:*
 - *a breakdown of their nationality/country of residence and, for those living in Scotland, the breakdown of warnings by SIMD rank*
 - *how many were warned for camping offences and of these, how many were camping within a permit zone without a permit and how many were warned for camping in a camping management zone outwith permit areas*
 - *how many were warned for offences involving staying overnight in a campervan/caravan outwith the road system (if you stay overnight in a vehicle on a road you are exempt from the camping byelaws)*
 - *how many were warned for offences involving fires*
 - *who issued the warnings broken down by LLTNPA's Rangers, the police officers employed by the LLTNPA, other police officers directly employed by Police Scotland and Rangers employed by Forest Enterprise/Forestry Commission Scotland*

7) Referrals to the PF

- *Do the 7 cases referred to the PF by Police Scotland include the Police Officers employed by the LLTNPA and if so how many of those referrals were made by them?*
- *Any information the LLTNPA holds on the outcomes of the cases referred to the procurator fiscal*

8) Fixed Penalty Notices.

- *The Board Report states 4 Fixed Penalty Notices were issued to campers for littering. How many other FPNs did the LLTNPA issue in 2017 for a) fly tipping and b) littering*

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Thanks for your help”

Response

On 5 February 2018 the Park Authority advised that due to the volume and complexity of the response, that we would require an additional 20 days in which to deal with your request.

On 6 March 2018 the Park Authority provided the following response to you:-

“REQUEST UNDER ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004

I refer to your request for information, received by email on 9th January 2018. The information you have requested is environmental information, as defined in Regulation 2 of the Environmental Information (Scotland) Regulations 2004 (EIRs). The Park Authority has an obligation to deal with your request under the EIRs and an option to also deal with your request under the Freedom of Information (Scotland) Act 2002 (FOISA), unless the public interest lies in dealing with your request solely under the EIRs. We consider that the public interest in dealing with your request solely under the EIRs outweighs the public interest in also dealing with your request under FOISA, on the basis that the public interest is not served by duplicating consideration of your request under both regimes. We have therefore applied the exemption in section 39(2) of FOISA and dealt with your request under the EIRs alone.

Your specific requests and the response from the National Park Authority are provided below.

1) All information the LLTNPA holds in relation to the stakeholder forum held in November 2017 (apart from personal data relating to invitees) including: any invitation letter/agenda; attendance; notes or minutes of the meeting; copies of presentations/handouts.

*The meeting notes and actions, attendees and apologies and slides for the stakeholder forum meeting held in November 2017 can be found online at:
[Lhttp://www.thisisyourpark.org.uk/downloads/](http://www.thisisyourpark.org.uk/downloads/)*

I can therefore advise under R6(1)(b) of the EIRs that this information is already publically available and accessible.

2) Documentation relating to the Monitoring Framework referred to in paragraph 4.6 of the report (if there is one document describing the monitoring framework that would be sufficient but if not I would request all information the LLTNPA holds that would enable a member of the public to understand what is being monitored.

Appendix A attached describes the monitoring framework. It should be noted that methodologies for the collection and analysis of data will be refined regularly to ensure that the National Park is best able to report to the Scottish Ministers in 2019.

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3) If not included above, the number and locations of the following referred to in paragraph 6.2 of the Board Report and any information the LLTNPA holds on how they were chosen (including how existing impacts could be attributed to camping rather than other recreational uses):

- Monthly fixed point photography of camping areas

The sites were chosen from a mixture of possible permit and non-permit areas within proposed Camping Management Zones.

There are 17 locations for monthly fixed point photography of camping areas listed below;

- Balquidder
- Falls of Falloch
- Loch Achray (2 Locations)
- Loch Chon (2 Locations)
- Loch Earn (2 Locations)
- Loch Long
- Loch Lubnaig
- Loch Venachar
- Lochan Maoil Dhuinne (2 Locations)
- Rowardennan (2 Locations)
- Stronselaney
- Tarbert Isle

- Sites chosen for vegetation surveys

The six sites have been chosen across a mixture of both permit and non-permit areas with all of the sites currently being monitored by the fixed point photography project.

Sites include:

- West Loch Lomond - Falls of Falloch
- East Loch Lomond - Rowardennan
- Trossachs South - Loch Chon
- Trossachs North - Balquidder
- Trossachs North - Venacher
- Trossachs North - South Loch Earn

- Sites chosen for water sampling

Water samples are taken from 23 sites. The sample locations were chosen based on local knowledge of popular loch shore wild camping sites and/or water recreation sites throughout the park. The samples were taken from shallow water, as it was felt that this represents most visitors' interaction with the water (e.g. bathing, fishing, paddling, and getting in/out of water craft).

Sites include;

- Loch Lomond - Luss
- Loch Lomond - Firkin
- Loch Lomond - Tarbet
- Loch Long - West Car Park at the head of the loch

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- Loch Lomond - Inveruglas
- Loch Lomond - Ruhba Ban
- Loch Lubnair - by car park
- Lochan Lairig Chiele - by layby
- Loch Earn - Horseshoe layby
- Loch Earn - Long layby
- Loch Earn - Cairn/tombstone
- Loch Earn - Pier to east of Ardvorlich Burn outflow
- Loch Earn - By entrance to Ardvorlich House
- Loch Voil - West of Ruvaeg
- Loch Lubnaig - North layby
- Loch Lubnaig - Day car park
- Loch Venacher - To west of new car park
- Loch Venacher - By trees via footbridge from car park
- Loch Achray - Farmers field to SW of loch
- Loch Chon - Large car park
- Lake of Menteith - Road along east shore
- Loch Lomond - Sallochy
- Loch Lomond - Milarrochy

4) A list of all groups surveyed as referred to in 6.2 of the Board Report and copies of the survey questions (excluding feedback on the camping permit system which has partly been provided and is partly subject to EIR 2017-076 Review).

The groups surveyed are as follows:

- Members of the Stakeholder Forum
- Park Authority staff and Board Members
- Non-visitor survey - carried out through face to face interviews at key honeypot locations – Balmaha, Balloch, Luss and Callander.
- The camping user survey has been distributed all users who booked a permit or a pitch through the NPA and agreed at time of booking to be contacted by us.
- Research firm Progressive Partnership have been distributing the link to the survey through walking and outdoor forums such as Wild Camping UK, Wild Camping in Scotland, Scottish Wild Camping.

5) The number of complaints the LLTNPA dealt with in 2017 under your complaints process

The Park Authority processed 155 complaints under the formal complaints process in 2017.

and of these the number that were in whole or part about the camping byelaws broken down by application of the camping byelaws, the state of the camping permit areas, the operation of the permit system, the state of the Loch Chon campsite and the operation of the permit system for the Loch Chon campsite

There were 32 complaints received in 2017 in whole or part in relation to the introduction of the camping byelaws, permit areas and the new campsite at Loch Chon. We received a request for this information in 2017, the response can be found on our website at:

<http://www.lochlomond-trossachs.org/rr-content/uploads/2016/07/Byelaw-complaints.pdf>

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I can therefore advise under Regulation 6(1)(b) of the EIRs that this information is already publically available and easily accessible.

6) Information on warnings.

Guidance to staff on the operation of the warning system

The Park Authority Police officer and Visitor Management Adviser were involved in delivering training to Park Authority Rangers on the application of the camping management byelaws, including the use of warnings. Rangers received scenario based training and took part in question and answer discussions to ensure they understood how the byelaws apply. Training materials were not issued for this practical element of their training. Accordingly I have to advise under S10(4)(a) of the EIRs that there is no information held.

Rangers were also provided with the Visitor Management Engagement and Enforcement Policy, available at: <http://www.lochlomond-trossachs.org/rr-content/uploads/2017/03/Engagement-and-Enforcement-Policy.pdf>

Of the 828 people warned for breach of the camping byelaws:

a breakdown of their nationality/country of residence

This information has been withheld from release under Regulation 11(2) of the EIRs as the information requested is personal data of which the requester is not the data subject. The release of this information would contravene the second and sixth Data Protection Principles as it was gathered for one specific purpose and has been processed in accordance with the rights of the individuals concerned.

Therefore the disclosure of this information, which is not the personal data of the requester, would contravene the Data Protection Act 1998. This means that there is no requirement to consider the public interest in the disclosure of this information.

for those living in Scotland, the breakdown of warnings by SIMD rank

The Park Authority has not recorded a breakdown of warnings by SIMD rank. Accordingly I have to advise under Regulation 10(4)(a) of the EIRs that this information is not held.

how many were warned for camping offences

All warnings were in relation to one of the camping management byelaws

of these, how many were camping within a permit zone without a permit

222 people were camping in a permit area without a permit.

how many were warned for camping in a camping management zone outwith permit areas

606 people were camping outwith a permit area in a camping management zone.

how many were warned for offences involving staying overnight in a campervan/caravan outwith the road system (if you stay overnight in a vehicle on a road you are exempt from the camping byelaws)

Details were taken from 13 people in relation to staying in a campervan/caravan outwith the road system.

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how many were warned for offences involving fires

As we have already answered this question in our response to you of 9th February 2018, I have to advise under Regulation 6(1)(b) of the EIRs that this information is already available and easily accessible to you.

who issued the warnings broken down by LLTNPA's Rangers, the police officers employed by the LLTNPA, other police officers directly employed by Police Scotland and Rangers employed by Forest Enterprise/Forestry Commission Scotland

The 828 warnings were issued by Park Authority Rangers
There are no police officers employed by the Park Authority. The Park Authority does not hold information about warnings issued by Police Scotland or by Rangers employed by Forest Enterprise/Forestry Commission Scotland. Accordingly I have to advise under Regulation 10(4)(a) of the EIRs that this information is not held.

7) Referrals to the PF

- Do the 7 cases referred to the PF by Police Scotland include the Police Officers employed by the LLTNPA and if so how many of those referrals were made by them?

The Park Authority works closely with Police Scotland and one police constable has been seconded to work at the Park Authority headquarters, however there are no police officers employed by the Park Authority.

Details of the number of referrals made by any one police officer have been withheld from release under Regulation 10(5)(b) of the EIRs as the release of this information would or would be likely to prejudice substantially the confidentiality of the proceedings of the Park Authority where such confidentiality is provided for by law.

We are required to consider the public interest test when the exception in Regulation 10(4)(d) of the EIRs is invoked. The 'public interest' has been described as something that is of serious concern or benefit to the public and not merely of individual interest. It has also been stated that the public interest does not mean 'of interest to the public' but 'in the interests of the public'.

The following public interest factors favour the release of the information in this case:

- The public interest in individuals being able to exercise their rights under the EIRs in order to enhance their understanding of the work of a public authority
- The public interest in members of the public knowing how a public body performs its functions, in the context where resources are shared between different public authorities, in this case the shared resource of the provision of a police officer on secondment from Police Scotland to the Park Authority.
- The public interest in ensuring openness, transparency and accountability in the use of public resources

The following public interest factors favour withholding the information in this case:

- The fact that there is only one police officer at the lowest rank of constable on secondment to the Park Authority
- The likely consequences of the release of this information, which identifies the

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work of a specific individual who has been discharging his public duties without any expectation that details of confidential reports made to the Procurator Fiscal as part of these duties would be made public

- *The negative impact on the ongoing professional working relationship between the Park Authority and Police Scotland, which is vital to achieving the aims of the National Park*

We have therefore concluded that there is a greater public interest in withholding this information due to the negative impact and unreasonable pressure that would be placed on one individual police constable by the release of this information as well as the wider consequences in terms of the harm that would be caused to the working relationship between the Park Authority and the police constable who is on secondment from Police Scotland and works directly with the Park Authority.

- Any information the LLTNPA holds on the outcomes of the cases referred to the procurator fiscal

Police Scotland reported 7 cases to the Fiscal, of these; two were disposed of by issuing a Fiscal Fine, which was paid. The Park Authority does not hold any information about the outcome of the other five cases. Accordingly I have to advise under Regulation 10(4)(a) of the EIRs that this information is not held.

The Park Authority reported 3 cases to the Fiscal, two were disposed of by issuing a Fiscal Fine, the third case has not been concluded.

(Police Scotland and Fiscal contacted to advise of this request)

8) Fixed Penalty Notices.

- The Board Report states 4 Fixed Penalty Notices were issued to campers for littering. How many other FPNs did the LLTNPA issue in 2017 for a) fly tipping and b) littering

*There was one FPNs issued by the Park Authority in 2017 for fly tipping
There were no FPNs issued by the Park Authority in 2017 for littering*

Yours sincerely”

Review Procedure

On 5 April 2018 you requested a review in the following terms:-

“Dear Melanie,

Thankyou for this response and all the information provided which was very helpful. I wish to ask for a Review of your decision under question 6 not to provide a breakdown of the nationality/country of residence of the 828 people warned for breach of the camping byelaws on the following grounds:

“This information has been withheld from release under Regulation 11(2) of the EIRs as the information requested is personal data of which the requester is not the data subject. The release of this information would contravene the second and sixth Data Protection

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Principles as it was gathered for one specific purpose and has been processed in accordance with the rights of the individuals concerned.”

The LLTNPA in its report for Ministers provided a breakdown of permit bookings in the form I requested and that clearly was not a breach of data protection - or if it was I would be asking to report yourself to the Information Commissioner - and therefore your own practice shows that refusing me on this grounds is totally unreasonable. I am asking for no personal information, only the data on nationality/country of residence.

Regards,”

Review Response

I have considered your review request and I would respond to you in the following terms, the Park Authority did not request information of the “*nationality/country of residence*” of those people who were warned for breach of the camping byelaws. We do not therefore hold that information. Accordingly, in terms of regulation 10 (4)(a) of the Environmental Information (Scotland) Regulations 2004, I do not uphold your review request as this information is not held.

Notwithstanding that fact however, the Park Authority did request the address of those people who were warned, and does therefore hold address information. Some of that information includes a “country”; however some of those details only provide an address of a place within the United Kingdom. I have arranged for an officer to extract the information for you in order that you can see all countries referred to directly or, by implication in the information gathered.

I consider that that information (on its own) may be released to you (subject to a limited exception which I have noted below).

Therefore, please find the following information in relation to the 828 people warned for breach of the camping byelaws: a breakdown of the country related to the details given by them.

766 – United Kingdom

3 - Denmark

7 - Germany

4 - Poland

1 - Australia

1 - USA

2 - Czech Republic

2 - Spain

1 - Uruguay

2 - Netherlands

3 - Switzerland

1 - Italy

2 - Belgium

1 - France

32 - Not taken/not known/details provided may be deemed to be personal data

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Review Procedure

If you are not satisfied with this decision you are entitled to appeal to the Scottish Information Commissioner. Please note that in order for an appeal to take place you must lodge your appeal within six months of the date of receipt of this letter.

Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS
Tel: 01344 464 610

Website: www.itspublicknowledge.info

E-mail: enquiries@itspublicknowledge.info

Online appeal portal: www.itspublicknowledge.info/Appeal

Should either the requester or the Park Authority subsequently wish to appeal against a final decision by the Scottish Information Commissioner, they have the right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of the Commissioner's decision.

Yours sincerely

Governance and Legal Team
Loch Lomond & The Trossachs National Park Authority
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