



EIR Ref: 2018/013

13th June 2018

REQUEST UNDER ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004

I refer to your request for information, received by email on 17th May 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 request and the response from the National Park Authority are provided below.

“Please make public and also email me the LLTNPA LAF's 'Terms Of Reference' or other guidelines that govern its role, remit, procedures, methods of communication etc etc.”

Please find attached in Appendix A, the Local Access Forum's Operating Principles and Procedures for Site Visits. All information disclosed in this response will be published on our disclosure log, which can be found on our website at: <http://www.lochlomond-trossachs.org/park-authority/freedom-of-information/information-responses/>

Under Regulation 9 of the EIRs, we have a duty to provide advice and assistance. Given that you have also asked a number of questions regarding the status of the Local Access Forum in relation to the Freedom of Information (Scotland) Act and the EIRs as well as querying whether a request for information can be sent directly to the LAF or if it should be sent to the Park Authority, we would like to provide an explanation of these points.

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
t: 01389 722600 f: 01389 722633 e: info@lochlomond-trossachs.org w: lochlomond-trossachs.org

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The National Park Authority is defined as a public authority under Part 7 (no 73) of the Freedom of Information (Scotland) Act 2002. This requires us to respond to requests for any recorded information that we hold. We are similarly required to process requests for environmental information under the EIRs.

Please note that any member of the public may submit a request for information, however there is no requirement for such a request to reference either FOISA or the EIRs, it is the responsibility of the Park Authority to identify requests for information and process them in accordance with the relevant legislation, which will depend on the type of information that has been requested.

As well as being a public authority, the National Park as an access authority has a duty under Part 1 Section 25 of the Land Reform (Scotland) Act 2003 to set up a local access forum (LAF). The LAF has specific functions, which are set out in Section 25 of the Land Reform Act.

The Forum acts in an advisory capacity for the Park Authority and for any other person who consults the forum on matters in relation to access rights. The Park Authority ensures that the public have access to information about the Forum and the work it is undertaking, which will include processing any requests for information about the work of the Forum and information held by the Forum.

As a member of the public who has made a request for information about the work of our Local Access Forum, your request has been passed to the relevant staff from the Park Authority who process information requests, this would be the case regardless of whether an FOI request was sent directly to the LAF or the Park Authority. A previous request for information about the work of the LAF, which you referred to in recent correspondence, was similarly processed by the Park Authority.

I trust that this explanation has clarified for you the relationship of the LAF to the Park Authority, and reassure you that any requests for information about the work of the LAF are processed by the Park Authority in accordance with the relevant legislation, which you or any other member of the public are not required to reference when making a request.

Yours sincerely

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

Review Procedure

If you are dissatisfied with this decision, or the way in which the Authority has dealt with your request, you are entitled to require the Authority to review its decision. Please note that in order for a review to take place you are required to:

- Send your request for review in writing, setting out in full the reasons why you are requesting a review.
- Submit your review request within 40 working days of either the date on which you received a response from the Authority or the date by which you should have received a response under the terms of the Freedom of Information (Scotland) Act 2002, whichever is the later.
- address your review request to:

Governance & Legal Team
Loch Lomond & The Trossachs National Park Authority
National Park Headquarters
Carrochan
Carrochan Road
Balloch
G83 8EG
E-mail: info@lochlomond-trossachs.org

The review will be handled by staff who were not involved in the original decision. You will receive notice of the result of your review within 20 working days.

If you are not satisfied with the response to your request for review, you can contact the Scottish Information Commissioner, the independent body which oversees the Freedom of Information (Scotland) Act 2002, at:

Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS
Tel: 01334 464610
Website: www.itspublicknowledge.info
E-mail: enquiries@itspublicknowledge.info

Online appeal portal: www.itspublicknowledge.info/Appeal

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Loch Lomond & The Trossachs Access Forum Operating Principles

Status

The Loch Lomond & The Trossachs Access Forum (the Forum) is established in terms of Section 25 of the Land Reform (Scotland) Act 2003. The Forum will cover the Loch Lomond and The Trossachs National Park area as defined in the Loch Lomond & The Trossachs National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2002.

The Forum membership will be appointed by the NPA and the secretariat provided by the NPA. The Forum will act independently in its advisory role to the NPA and the public.

Role

The Forum is a Loch Lomond & The Trossachs National Park Authority (NPA) appointed advisory body. Its functions are to advise the Park Authority and the public and to offer assistance in resolving any dispute relating to:

- the exercise of access rights as defined in Part 1 of the Act
- rights of way
- core paths planning
- other access related issues that may arise as part of the Park Authority's or it's partner agencies work.

Membership

The Forum will consist of 13 appointed members representing a range of land managers, recreational users, local communities, agencies and organisations with an interest in access.

One place on the Forum is reserved for a National Park Board Member. The NPA member is appointed by the NPA Board.

The other 12 members are appointed by the NPA's Executive. The duration of appointment is for a minimum 3 year term.

Whether a member was appointed as an individual, or due to their ability to represent an organisation, all members are appointed in their own right and should not use other representation if unable to attend meetings.

A member may resign from the Forum by writing directly to the NPA giving at least 4 weeks notice. Representative members must resign if they no longer represent their nominating organisation.

Non-voting advisory members may attend Forum meetings. A list of advisory members will be kept and they will receive copies of the approved minutes of Forum meetings.

The NPA will provide input to the Forum meetings through the attendance of appropriate Officers. This role is a non-voting role and advisory.

Aims

The Forum's work should aim to:

- advise on the responsible use of access rights
- advise on the responsible land and water management in relation to the new access rights
- promote understanding and awareness of access rights and the Scottish Outdoor Access Code amongst both access users and land managers
- advise on the review of the Park's Core Paths Plan
- advise on the Outdoor Recreation Plan implementation and monitoring
- advise, as required, on strategic access matters that may arise within the Park area

Role of members

Members are expected to seek the views of their general and specific areas of representation and bring matters before the Forum as required. A communication plan will guide this process.

The Forum should endeavour to reach consensus on particular issues, however where this is not possible a vote may be required.

Voting will normally involve a show of hands by majority decision.

The Convenor will have the casting vote if required.

Convenor and Vice Convenor

The Convenor and Vice Convenor will be elected by the Forum

The Convenor and Vice Convenor shall serve for a minimum of 2 years.

The procedure for electing the convenor and vice convenor will be as follows:

1. Nominations are made in writing or in person to the nominated NPA Officer at least two weeks prior to the election meeting (Forum meeting). Each nomination must have a proposer and seconder from the Forum membership
2. Nominees may make a short verbal statement (no more than 5 minutes) or circulate a short written statement prior to the vote
3. Members can cast one vote and must be present at the election meeting
4. The candidate with the most votes is elected
5. In the event of a draw the current Convenor will decide
6. At the first election if two or more people are standing and the two with the most votes are equal a second vote between the top two will be made
7. Election of Convenor will take place first, followed by Vice Convenor

The Convenor will preside over meetings, in his/her absence the Vice Convenor will preside. If neither is available the members will decide by majority vote who will preside.

A Convenor or Vice Convenor can be removed from office if 9 members support a motion to that effect. Such a motion must be submitted in writing 21 days prior to the Forum meeting and signed by at least 6 members.

Administration of meetings

Secretariat shall be provided by the NPA including taking and issuing of minutes, distribution of papers and relevant information and updating of website. The NPA shall also act as an address point for the Forum.

Draft minutes will be issued 4 weeks after the meeting for comment by Convenor. Minutes will then be circulated along with any papers prior to the next Forum meeting. Once the minutes are approved or any final amendments made at the meeting they will be posted on the website.

Meetings will be held twice a year, with additional meetings if required. Preference for venue and timing of meetings will be decided by the Forum members. Dates for meetings will be decided for one calendar year at a time.

The quorum for the Forum will be 7 members. If during a meeting the number of attending members falls below 7 then the meeting will end.

Agenda items and papers can be submitted by any member of the Forum and must be submitted to the Access Officer or Forum's Secretariat at least 3 weeks before meetings. The Agenda for all meetings will be agreed by both the Convenor and the appointed NPA Officer.

The Agenda and any Papers will be made available for public inspection at NPA HQ or on the NPA website 1 week prior to the meeting.

All meetings of the Forum will be held in public where meeting papers are being discussed.

Where issues are considered to be of a highly confidential nature the Public may be asked to leave the meeting to allow matters to be dealt with in private. Such instances will be decided by the Forum members.

Declarations of interest

At all meetings members should declare any interest they have relating to any items of business to be dealt with by the Forum.

Public Participation at Meetings

Notice of public meetings will be displayed in advance of the meeting dates. These will be available for each calendar year on the NPA website. A public notice will also be displayed at NPA HQ 7 days prior to meetings being held.

Members of the public may put forward items for discussion at Forum meetings in the following ways:

Public Participation in meetings:

1. By making a written correspondence to the Forum 3 weeks prior to a Forum meeting.
2. Items will then be checked for content by the Convenor and any inflammatory references or inappropriate references to staff or individual members. The decision on the request will be communicated in writing.
3. Those who submit an approved request then have an option to either speak in person for a maximum of 5 minutes at the meeting or have the issue presented by the Convenor.
4. The Convenor will co-ordinate the response and any further related questions that may be asked by Members of the speaker.

Contacting a Forum Member:

1. Should a member of the public wish to have an issue raised on their behalf by a Forum member they should contact the member at least 2 days in advance of the meeting.
Forum members can be e-mailed at accessforum@lochlomond-trossachs.org
2. Full contact details of the member of the public should be held in order that a reply can be made in writing and minutes sent once approved.

Contacting the NPA:

1. Requesting at least 2 days in advance that an issue is raised on their behalf by contacting the NPA Access Team who may then raise the issue for discussion at the meeting.
2. Full contact details of the member of the public should be held in order that a reply can be made in writing and minutes sent once approved

Items for discussion will only be permitted if the item relates to the aims of the Forum.

Communications

Member's Role:

Members are required to be available for contact by the public and their respective areas of representation. A communications plan will be developed to ensure that effective links are made and to ensure that the Forum is truly able to represent the diverse range of access related requirements of the National Park's communities both resident, land owning and visiting.

NPA Role:

The NPA will ensure that the public have access to information about the Forum and the work it is undertaking. Under the Freedom of Information Act, all records relating to the Forum's work are available to the public. A communications plan will set out the approaches to be used in making much of this information available to the public.

Kenny Auld
Recreation & Access Advisor
Updated 10th Aug 2017



PROCEDURES FOR SITE VISITS BY MEMBERS OF THE LOCH LOMOND & THE TROSSACHS ACCESS FORUM

Purpose

An Access Forum site visit will take place if the Forum agrees to offer advice to a member of the public, the access authority or any other agency, organisation or body seeking the Forum's views regarding an access issue relating to the provisions of Part 1 of the Land Reform (Scotland) Act 2003; and in order to give that advice it is deemed necessary to visit the site concerned. Site visits will only take place with the agreement of the landowner.

Some of the circumstances that may result in the need for a site visit are:

- Advising on the application of access rights (including rights of way) to a site, in particular where privacy zones or curtilage applies to buildings.
- Advising on the general management of access rights on land or water, for example in relation to land management activities and recreational activities.
- Advising on core paths, including alignments, closures and amendments.

The decision to undertake a site visit will always be made by the Access Forum, after an initial consideration of the relevant issues. Site visits will take place prior to Forum meetings.

The sole purpose of the Access Forum undertaking a site visit is for Members to gain information relating to the access issue which they are advising on, and to allow them to gain a greater understanding of the site and its surroundings.

Attendance

Only the Forum Members and Advisory Members, in the presence of an Access Officer(s), the minute taker and any other NPA Officer as required, may participate in the site visit. A record of Members attending the visit will be kept.

The landowner and/or land manager will be notified of the visit, the person seeking advice and anyone who has an interest in the issue and has raised a concern in writing. Members of the Forum should only enter land, whilst acting on behalf of the Forum, with the agreement of the landowner/occupier.

Where practical a mini-bus will be provided to transport Members to and from the site visit. Members are requested to use this service where provided, in order to reduce the number of private vehicles accessing the site, which may have a limited amount of parking available.

Procedure

The Forum Convener (or Forum Member chairing the visit) shall explain the purpose of the site visit and the procedures to be followed. The Senior Access Advisor or other nominated NPA Officer, will conduct the site visit, pointing out the relevant aspects of the site, the issues or areas for discussion and the surrounding land or water. The landowner or land manager may also be invited to point out any factual matters relating to features of the site or its surroundings. Discretion in this respect shall remain with the Forum's Convener.

The arrangements for the site visit will be made by the Senior Access Advisor or nominated NPA Officer. Members attending site visits may need to wear boots, water-proofs and be prepared to walk over rough terrain. A risk assessment for site visits will be undertaken by the NPA.

Whilst on site visits, Members of the Forum shall keep together as a group at all times and shall not engage in any individual discussions regarding the issue with either the landowner or individuals involved in the issue. If anyone attempts to lobby Members, or to disrupt the proceedings in any way then, unless order is restored, the Convener will request that the parties leave the site visit. The Convener shall also be entitled to instruct all Members and Officers to leave the site, and the site visit to be abandoned.

No discussion on the merits of an issue shall take place, or advice on the issue be made, whilst at the site. Members should therefore always avoid expressing any opinion about the issue (or otherwise).

At the subsequent meeting of the Access Form the person or persons asking for the Forums advice will have the opportunity to present their views under the rules of the agreed LLTAF Operating Procedures. Any application to talk at a meeting should be made 14 days prior to the meeting, by contacting:

Babs Robertson
Loch Lomond & The Trossachs National Park
20 Carrochan Road
Balloch
G83 8EG
Tel: 01389 722672
Email: babs.robertson@lochlomond-trossachs.org