



EIR Ref: 2017/057

14th August 2017

REQUEST UNDER ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004

I refer to your request for information, received by email on 5th July 2017.

We have applied the exemption under Section 39(2) of the Freedom of Information (Scotland) Act 2002 as we have determined that the information sought in your request is environmental information. We are therefore handling your request under the terms of the Environmental Information (Scotland) Regulations 2004 (EIRs). In this case the public interest in maintaining this exemption and in dealing with the request in line with the requirements of the EIRs outweighs any public interest in disclosing the information under FOISA.

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

"Q1 All information held by the Park Authority on which private roads within the National Park have a public right of passage"

The Park Authority's original response dated 7th April 2017 confirmed that it did not hold information about all of the private roads within the National Park, where there is no public right of passage. The exception under Regulation 10(4)(a) was applied to the request. This decision was then reviewed and upheld in our response dated 28th June 2017. Your further request for information relating to temporary notices is being handled separately as EIR 2017-47.

Given the passage of time since your original request and amended scope of the request, we wanted to take the opportunity provided by you to review the position. We have carried out searches of our files for any relevant information held as at 5th July. The position remains that the Park Authority does not hold information regarding private roads within the National Park that have a public right of passage. The exception under Regulation 10(4)(a) remains applicable, as the requested information is not held by the Park Authority.

The Park Authority holds information regarding the erection of temporary notices that refer to a right of passage at two car parks managed by the Park Authority, but this has been handled separately as EIR 2017-47.

"Q2 All correspondence between the Park Authority and Police Scotland on which private roads within the National Park have a public right of passage."

The Park Authority holds external legal advice and correspondence with Police Scotland regarding the legal test for whether a right of passage exists or not. The position is that each

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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case is assessed on a case by case basis, so this may explain why the Park Authority (and Police Scotland) do not hold a list of locations where a right of passage exists or does not exist. The external legal advice and correspondence with Police Scotland relate to enforcement and therefore falls within exceptions under Regulation 10(4)(e) and 10(5)(b) as releasing this information would be likely to have a negative impact on the ability of the Park Authority to manage enforcement of the byelaws by substantially prejudicing the course of justice. Therefore the public interest in withholding this information outweighs the public interest in releasing it.

Yours sincerely

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

Review Procedure

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

- Lodge a written request for a review 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 Environmental Information (Scotland) Regulations 2004, whichever is the later.
- Include your name, address for correspondence, a description of the original request, and the reasons why you are dissatisfied; and

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

Please note that links provided to information available elsewhere are intended to assist you. Requests for information held by other public authorities, and any complaints regarding access to such information should be addressed to that authority. These review procedures relate only to information which is directly under the control of Loch Lomond & The Trossachs National Park Authority.

The review of your request 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.

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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 Environmental Information (Scotland) Regulations 2004, at:

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

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