

EIR Ref: 2017/001

2<sup>nd</sup> February 2017

## **REQUEST UNDER ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004**

I refer to your request for information, received by email on 5<sup>th</sup> January 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

**The proposed byelaws make lighting of fires and collection of wood a criminal offence if these are likely to cause damage.**

### **Fires**

**(9) No person shall without lawful authority:**

**(a) light or cause a fire within a Management Zone causing damage or likely to cause damage to a Management Zone; or**

**(b) collect or use wood from within a Management Zone that causes damage or is likely to cause damage to a Management Zone.**

**“Please provide me with what definitions the Loch Lomond and Trossachs National Park Authority has for what constitutes damage in both these cases (ie when collection of wood and lighting of fires cause damage), what guidance the LLTNPA is going to issue to staff about this and what proof they will be required to supply in order to refer someone to the procurator fiscal.”**

Byelaw (8) of the Loch Lomond & The Trossachs National Park Camping Management Byelaws 2017 includes definitions and interpretations (Section 5, page 4) from where the interpretation and meaning assigned to the term ‘damage’ is stated. The byelaws are publically available at: <http://www.thisisyourpark.org.uk/download/byelaws-2017/?wpdmdl=2306>

Park Authority Rangers receive training on the new byelaws, including byelaw (8), and have copies of the byelaws including the definitions. The matter of “what proof they will be required” to give to the Procurator Fiscal will vary from case to case. Accordingly I have to advise under

### **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](mailto:info@lochlomond-trossachs.org) w: [lochlomond-trossachs.org](http://lochlomond-trossachs.org)

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R10(4)(a) of the EIRs that there is no information held.

More specifically, I would like to know:

- whether and in what circumstances the Park will treat someone who has collected some dead twigs from the ground as causing damage?
- whether someone who collects wood from road verge cutting of vegetation will be treated as a criminal?
- whether someone who lights a fire on a stony surface (eg rock or pebble beach) will be regarded as causing damage and if so on what basis?
- whether someone who lights a fire on bare earth (eg vegetation killed by walkers feet) will be regarded as causing damage and if so on what basis?
- in what circumstances someone who brings their own fire pit/barbecue will be regarded by the Park as causing damage?

The Park Authority does not hold any information on any of the above hypothetical scenarios. Accordingly I have to advise under R10(4)(a) of the EIRs that there is no information held.

**Under Freedom of Information/Environmental Information Regulations I would like to request from you all written information you hold on this including all communications with the Procurator Fiscal and Police Scotland on the definition of damage and all communications you have had with SNH on what constitutes damage. I would also like to request if you have sought any legal opinion as to what constitutes damage, either directly yourself or indirectly through the Scottish Government.**

As stated above, the legal definition of damage is included in the camping management byelaws which are publically available.

A legal representative for the Park Authority and another officer met with the Crown Office in relation to the introduction of the new byelaw legislation and the definition of damage was considered. External legal advice was also taken in relation to the definition of damage. Correspondence with the Crown Office and external legal advisers on the definition of damage is legally privileged and as such falls within the exception for confidential information. Accordingly I have to advise that this information has been withheld under R10(5)(d) of the EIRs.

The public interest in the release of this information has been considered. It has been concluded that the public interest in ensuring that the correct legal definition of damage was formed, based on appropriate legal guidance, which is legally privileged information, outweighs the public interest in its release into the public domain.

The Park Authority did not communicate with Police Scotland on the definition of damage. Accordingly I have to advise under R10(4)(a) of the EIRs that this information is not held. However, the response by Police Scotland to the Your Park consultation references damage and this is publically available on the Your Park website.

The Park Authority holds the following written comments from Scottish Natural Heritage on the definition of damage as discussed during the drafting of the byelaws.:

Wording for comment	SNH comment
damage" means any damage within a <b>Designated Area</b> , including: death or <b>injury</b> to	"Suggest include words 'death or injury or <i>harassment</i> ' of wildlife. (NB: we considered

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or the taking of any <b>wildlife</b> ; death or <b>injury</b> to any person; or any damage or adverse effect whatsoever to any <b>property</b> ;	using 'disturbance' but that can be done unintentionally whereas harassment implies a deliberate act.)"
nuisance" means any <u>unreasonable</u> act or omission which causes or is likely to cause annoyance, disturbance, <u>obstruction</u> or <b>damage</b> to any person;	Definition is too broad. Needs to be better defined. Adding in 'unreasonable' makes it clear that its not everything that might annoy somebody else but only things which the law might regard as unreasonable
<b>Nuisance, Damage litter and firelighting</b>	Better reflects the content of this part of the byelaws (natural and cultural heritage aren't mentioned explicitly below)`
No person shall without lawful authority light or cause a fire within a <b>Designated Area</b> causing <b>damage</b> or likely to cause damage to a <b>Designated Area</b> ; collect or use <b>wood</b> from within a <b>Designated Area in a manner</b> that causes <b>damage</b> or is likely to cause damage or injury to a <b>Designated Area</b> .	

Email correspondence with Scottish Natural Heritage is attached in Appendix A.

The Park Authority did not communicate directly or indirectly with Scottish Government on the definition of damage. Accordingly I have to advise under R10(4)(a) of the EIRs that this information is not held.

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

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G83 8EG  
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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.

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](http://www.itspublicknowledge.info)  
E-mail: [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)  
Online appeal portal: [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal)

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**Laura Baird**

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**From:** [REDACTED]@snh.gov.uk>  
**Sent:** 18 August 2014 08:14  
**To:** Bridget Jones; [REDACTED]  
**Subject:** RE: draft regs LLT

Hi Bridget,

Thanks for the update. Happy to discuss the wording when we meet up.

See you this afternoon.

Cheers,

[REDACTED]

[REDACTED] | Operations Officer

Scottish Natural Heritage | Beta Centre | Innovation Park | University of Stirling | Stirling | FK9 4NF

[REDACTED] | [REDACTED]@snh.gov.uk

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**From:** Bridget Jones [mailto:[bridget.jones@lochlomond-trossachs.org](mailto:bridget.jones@lochlomond-trossachs.org)]  
**Sent:** 15 August 2014 17:22  
**To:** [REDACTED]  
**Subject:** draft regs LLT

Dear all,

I am still awaiting drafting from Harpers, so nothing will arrive with you until Monday morning at earliest, I could send you an earlier draft but it is so out of date I would rather not!

Either way we will go through it on Monday afternoon and discuss the detail around zone mapping and the aspects covered by a byelaw which currently includes elements derived from ELL and Loch Lomond byelaws on damage to natural and cultural heritage.

[REDACTED] about a week  
or so to get back to us following this Mondays meeting.

[REDACTED]

Bridget

**Save paper and power - do you need to print this email or any attachments? If so please print double sided.**

Loch Lomond & The Trossachs National Park Authority  
National Park Headquarters  
Carrochan  
Carrochan Road  
Balloch G83 8EG  
Tel 01389 722600 Fax 01389 722633  
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**From:** [REDACTED]@snh.gov.uk]  
**Sent:** 21 August 2014 08:55  
**To:** Bridget Jones; Charlotte Wallace  
**Cc:** [REDACTED]  
**Subject:** Camping Management Byelaws - SNH Comments

Bridget / Charlie,

PSA our comments on the draft byelaws.

I've captured the points we discussed on Monday and have added some more in discussion with [REDACTED] (who advises on legislation covering species and protected sites). I've also made a few suggested changes to the text in track changes.

Hopefully they will all make sense but we're all happy to discuss any queries you have so please call if you want to chat:

[REDACTED]  
[REDACTED]  
[REDACTED]  
  
Cheers,  
[REDACTED]

[REDACTED] | **Operations Officer**  
Scottish Natural Heritage | Beta Centre | Innovation Park | University of Stirling | Stirling | FK9 4NF  
[REDACTED] | [REDACTED]@snh.gov.uk

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Please note that for business purposes, outgoing and incoming emails from and to SNH may be monitored.

The am post dealain seo agus feachadh sam bith na chos clomair agus zinnsean beach na buidheann

**Laura Baird**

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**From:** [REDACTED]@snh.gov.uk>  
**Sent:** 09 September 2014 09:40  
**To:** Charlotte Wallace  
**Cc:** [REDACTED] Bridget Jones  
**Subject:** RE: Camping Management Byelaws  
**Attachments:** Camping - Visitor Management Byelaws V0\_14(Clean - 08 09 2014).obr

Thanks Charlie

SNH folk – PSA the obj ref for the copy of the byelaws Charlie emailed us. I suggest any edits/suggestions are done in track changes to this copy to try to co-ordinate our comments.

[REDACTED] | Operations Officer  
Scottish Natural Heritage | Beta Centre | Innovation Park | University of Stirling | Stirling | FK9 4NF  
[REDACTED] | [REDACTED]@snh.gov.uk

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**From:** Charlotte Wallace [mailto:charlotte.wallace@lochlomond-trossachs.org]  
**Sent:** 09 September 2014 09:04  
**To:** Paul Roberts  
**Cc:** [REDACTED] Bridget Jones  
**Subject:** Camping Management Byelaws

Good Morning all,

Thank you again for your comments on the Draft Camping Management Byelaws. We have digested all your comments and discussed in detail with our legal team.

As a result we have been able to take on board over 60% of your comments and suggestions, and we feel that the Byelaws are a much better document as a result. So thank you again for your input.

Prior to our informal board meeting next week, please find attached the draft byelaws that will be discussed.

Either Bridget or myself would be happy you talk you through any element of the document, so please do not hesitate to give us a call, should you wish to discuss.

Kind Regards

Charlotte

**Charlotte Wallace**  
**Visitor Policy and Engagement Manager**  
Loch Lomond & The Trossachs National Park  
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