



## **Contracting with the National Park Authority Information for prospective contractors**

### **Introduction**

1. This note provides you with some information about the implications of entering into a contract with Loch Lomond and the Trossachs National Park Authority (the Park Authority). It is important that you read this note and keep it in a safe place for future reference.

### **Background**

2. The Freedom of Information (Scotland) Act 2002 (the Act) and the Environmental Information (Scotland) Regulations 2004 (the Regulations) give people (members of the public, companies, et) the right to access information held by Scottish public authorities. They also require public authorities to publish information proactively. FOI legislation is fully retrospective and covers existing as well as future contracts.
3. The Park Authority is a Scottish public authority. This means that we must comply with FOI law and related Codes of Practice.
4. The right to access information is subject to a number of exemptions. The Park Authority does not, for example, have to release information where its disclosure:
  - (i) Would substantially prejudice someone else's commercial interests
  - (ii) Would be an actionable breach of confidence
5. Even where an exemption does apply, the information may still have to be disclosed if it is in the public interest to do so.
6. Personal information will only be released in limited circumstances.

### **What this could mean for you**

7. FOI legislation will affect you in two main ways if you enter into a contract with the Park Authority:
  - (i) The Park Authority may not accept confidentiality terms and conditions in a contract which you might normally impose in contracts with other organisations.
  - (ii) Details about your dealings with the Park Authority (including details of the contract you enter into with the Park Authority) may be published or released in response to an information request.

## Terms and conditions

8. You may want to provide information to the Park Authority only on the basis that it will remain confidential and will not be disclosed if an information request is made for it. However, the Park Authority can agree to accept information in confidence only where the information is genuinely sensitive and therefore exempt from release. The Park Authority will not usually accept a condition in a contract which says that information must not be released without your prior approval.
9. Even if the Park Authority agrees to accept some information in confidence, the information may be disclosed at some point in the future. For example, information may be confidential at the time of entering into a contract, but it may no longer be confidential after the end of the contract. When a request is made to the Park Authority, we have to decide whether to release the information at the time the request is made.
10. As explained below, if you do want the Park Authority to manage documentation in relation to the provision of products and services as confidential, you must alert the Park Authority **at the time of providing it**. It is important that you explain in detail:
  - (i) Exactly what information you consider to be confidential
  - (ii) Why you think the information is sensitive
  - (iii) How long the information will remain sensitive
  - (iv) Which exemptions in the Act or exceptions in the Regulations apply and why
11. If the Park Authority accepts that some information should be withheld, it may be moved to an annex of any contract to make its special status clear.

## Requests for information about you

12. The Park Authority may receive a request for any information we hold about our dealings with you. For example, we may be asked for the contract, any tender submitted, correspondence between you and the Park Authority, or notes of meetings.
13. In most cases, the Park Authority aims to respond to any requests by disclosing the information. As set out above, FOI laws do allow the Park Authority to refuse to provide information in response to a request, but only in limited circumstances. For example, under the Act, information may be withheld if its disclosure would substantially prejudice your commercial interests. Under the Regulations, environmental information may be withheld if disclosure would substantially prejudice the confidentiality of commercial or industrial information.
14. The Park Authority will advise you that a request has been made, only if we consider that it is appropriate to do so. For example, we may contact you if the primary focus of the requested information is you as a business or individual, or where we are aware that disclosure could significantly affect you. If you did not tell us at the time of providing the information that you do not want it to be disclosed, the Park Authority may not contact you.
15. If the Park Authority does contact you about a request, it is very important that you respond **as soon as possible**, as we **must** respond in full to a request for information within 20 working days. If you do not respond to the Park Authority, it is likely that the information will be released. If you do not wish some or all of the information to be released, you must tell us in detail why you do not want the information to be released.
16. Any views you give will be taken fully into account, but it is the Park Authority who is responsible for deciding whether to release the information.