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Mr Nick Kempe
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Our ref: Fol/17/00590
30 March 2017

Dear Mr Kempe

REQUEST UNDER THE ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004 (EIRs)

Please find below our response to your request for information under the Freedom of Information (Scotland) Act 2002 contained in your letter of 6 March 2017.

Your request

Your letter of 6 March stated:

I understand that the Loch Lomond and Trossachs National Park Authority has consulted the Scottish Government about the repeal of the east Loch Lomond byelaws. Please provide me with all information the Scottish Government holds about this.

Handling of Your Request

As the information you have requested is 'environmental information' for the purposes of the Environmental Information (Scotland) Regulations 2004 (EIRs), we are required to deal with your request under those Regulations. We are applying the exemption at section 39(2) of the Freedom of Information (Scotland) Act 2002 (FOISA), so that we do not also have to deal with your request under FOISA.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption, because there is no public interest in dealing with the same request under two different regimes. This is essentially a technical point and has no material effect on the outcome of your request.

Response to your request

While our aim is to provide information whenever possible, in this instance the an exception under regulation 10(4)(e) of the EIRs (internal communications) applies to the type of information you have requested because it is internal legal advice and disclosure would breach legal professional privilege. Further information is provided in the Annex attached to this letter.

Your right to request a review

If you are unhappy with this response to your EIRs request, you may ask us to carry out an internal review of the response, by writing to Bridget Campbell, Director of Environment and Forestry. Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at:

<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

Yours Sincerely



GORDON ROBERTSON

REASONS FOR NOT PROVIDING INFORMATION

On the basis of its own legal advice, the Scottish Government has always been clear that revocation of the East Loch Lomond Byelaws is an operational matter for Loch Lomond & The Trossachs National Park Authority to consider. Ministers role in relation to any application for byelaws is to consider whether to approve, modify or reject proposals. There was no formal consultation between the Scottish Government and the National Park on this issue. An exception under 10(4)(e) of EIRs (internal communications) applies to the type of information you have requested because it is internal legal advice and disclosure would breach legal professional privilege.