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Mr Nick Kempe
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Our ref: Fol/17/00319
7 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 9 February 2017.

Your request

Your letter of 9 February stated:

‘Without prejudicing anything about my information request, could I ask a very specific question and that is whether the Scottish Government made any changes to the byelaws after they had been submitted by the National Park Board apart from the length of time they applied. The Minister in her letter to the LLTNPA approving the byelaws explicitly stated she had decided to amend the period they would apply to 30th September instead of 31st October but apart from that referred to no other changes. If the Scottish Government did make other changes, I would be grateful if you could provide me with all information you hold about those changes, how and why they were made and any communications with the National Park or other outside bodies on 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 Scottish Government does not have the information you have requested. Therefore we are refusing your request under the exception at regulation 10(4)(a) of the EIRs. The reasons why that exception applies are explained in the Annex 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

The Scottish Government does not have the information

Under the terms of the exception at regulation 10(4)(a) of the EIRs (information not held), the Scottish Government is not required to provide information which it does not have. On this occasion the Scottish Government does not have the information you have requested.

Other than the amendments to the operational dates to which you have already been informed, the Scottish Government made no additional changes to the byelaws.