



Mr Nick Kempe
nickkempe1@gmail.com
EIR Ref:2018/031

16th November 2018

Dear Mr Kempe

REQUEST UNDER ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004

We refer to your email of 21st October 2018. The information you have requested is environmental information, as defined in Regulation 2 of the Environmental Information (Scotland) Regulations 2004 (EIRs). The Park Authority has an obligation to deal with your request under the EIRs and an option to also deal with your request under the Freedom of Information (Scotland) Act 2002 (FOISA), unless the public interest lies in dealing with your request solely under the EIRs. We consider that the public interest in dealing with your request solely under the EIRs outweighs the public interest in also dealing with your request under FOISA, on the basis that the public interest is not served by duplicating consideration of your request under both regimes. We have therefore applied the exemption in section 39(2) of FOISA and dealt with your request under the EIRs alone.

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

1. *"The data the LLTNPA has collected and holds on the operation of the camping permit system for 2018 (including dates and place of booking, the numbers of places included in each booking and any feedback provided online). I am not asking for personal information and am happy that any data columns containing personal information be redacted. For the avoidance of doubt I am asking that any comments made as part of the feedback survey – which you refused to supply in 2017 – are provided."*

The camping permit data for 2018 including dates and place of booking, number of places included in each booking are attached in Appendix A.

Column headings which contain personal information are highlighted in red. The contents of these columns have been withheld from release under Regulation 11(2) of the EIRs as the information requested is personal data of which the requester is not the data subject. The release of this information would contravene the first, second and seventh Data Protection Principles as it was gathered for one specific purpose and has been processed in accordance with the rights of the individuals concerned.

LOCH LOMOND & THE TROSSACHS NATIONAL PARK AUTHORITY

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Therefore the disclosure of this information, which is not the personal data of the requester, would contravene the Data Protection Act 2018. This means that there is no requirement to consider the public interest in the disclosure of this information.

The online feedback provided by visitors following their visit is attached in Appendix B.

The responses to the following feedback questions have been withheld from release:

- *“you can provide more detail to your answer here if necessary”*
- *“If you could improve anything about your experience of either buying camping/motorhome permit or staying in a permit area what would it be?”*

The responses to these questions have been withheld from release under R10(5)(f) of the EIR as the individuals who provided their information were not and could not have been put under any legal obligation to supply the information and did not supply it in circumstances such that it could apart from these Regulations be made available and have not consented to its disclosure.

Application of public interest test

We are required to consider the public interest test when the exception in Regulation 10(5)(f) of the EIRs is invoked. The ‘public interest’ has been described as something that is of serious concern or benefit to the public and not merely of individual interest. It has also been stated that the public interest does not mean ‘of interest to the public’ but ‘in the interests of the public’.

The following public interest factors favour the release of the information in this case:

- the public interest in individuals being able to exercise their rights under the EIRs in order to enhance their understanding of the work of a public authority
- the public interest in members of the public knowing how a public body performs its functions, particularly in the context of the recent introduction of camping management zones in the National Park which have a direct impact on visitors
- the public interest in ensuring openness, transparency and accountability in relation to the use of public resources.

The following public interest factors favour withholding the information in this case:

- Visitors are under no legal obligation to provide feedback and do so voluntarily
- Visitors provided feedback with no expectation that their comments would be put into the public domain
- The release of this information into the public domain would be likely to deter future visitors from providing free and honest feedback on their visit.

The public interest factors are considered in more detail below:

The Park Authority is monitoring the operation of camping permit areas and campsites on an ongoing basis. The publication of user feedback could adversely impact on the quality and quantity of data collected in the future, in particular where people recognise comments that they have made where they understood this information would not be published as raw data. The qualitative data provided in response to the questions highlighted above related to the specific personal experiences of visitors, who provided this feedback for the sole purpose of assisting the Park Authority in monitoring and seeking to improve the camping experience for future visitors.

It has been concluded that there is a greater public interest in using the qualitative data gathered

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from these feedback questions to make improvements to the service provided, and to avoid any impact on free and honest feedback from future visitors who may be discouraged from providing their personal comments in future should this information be released into the public domain.

In addition, the responses to the following feedback questions have been withheld from release:

- *“If you would be happy for us to contact you to discuss your answers in more detail, or to provide feedback on any ideas you suggested, please leave your contact details here.”*

The responses to this question have been withheld from release under Regulation 11(2) of the EIRs as the information requested is personal data of which the requester is not the data subject. The release of this information would contravene the first, second and seventh Data Protection Principles as it was gathered for one specific purpose and has been processed in accordance with the rights of the individuals concerned.

Therefore the disclosure of this information, which is not the personal data of the requester, would contravene the Data Protection Act 2018. This means that there is no requirement to consider the public interest in the disclosure of this information.

2. *“Related to this any information the LLTNPA holds on the numbers of people found in camping permit areas without a permit and whether they then booked online or not”*

The Park Authority does not hold information on the numbers of people found in camping permit areas without a permit who subsequently booked online or not. Accordingly we have to advise under Regulation 10(4)(a) of the EIRs that this information is not held.

3. *“The data the LLTNPA has collected and holds on the operation of the campsite booking system for 2018 (including dates and place of booking, the numbers of places included in each booking and any feedback provided online). Again I am not asking for personal information and am happy that any data columns containing personal information be redacted. For the avoidance of doubt I am asking that any comments made as part of the feedback survey – which you refused to supply in 2017 – are provided.”*

The campsite data for 2018 including dates and place of booking and the numbers of places included in each booking are attached in Appendix C.

Column headings which contain personal information are highlighted in red. The contents of these columns have been withheld from release under Regulation 11(2) of the EIRs as the information requested is personal data of which the requester is not the data subject. The release of this information would contravene the first, second and seventh Data Protection Principles as it was gathered for one specific purpose and has been processed in accordance with the rights of the individuals concerned.

Therefore the disclosure of this information, which is not the personal data of the requester, would contravene the Data Protection Act 2018. This means that there is no requirement to consider the public interest in the disclosure of this information.

The online feedback provided by visitors following their visit is attached in Appendix D. some information has been withheld, specifically the individual comments from visitors in response to the questions:

- *“you can provide more detail to your answer here if necessary”*
- *“If you could improve anything about your experience of either buying camping/motorhome permit or staying in a permit area what would it be?”*

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The responses to these questions have been withheld from release under R10(5)(f) of the EIR as the individuals who provided their information were not and could not have been put under any legal obligation to supply the information and did not supply it in circumstances such that it could apart from these Regulations be made available and have not consented to its disclosure.

Application of public interest test

We are required to consider the public interest test when the exception in Regulation 10(5)(f) of the EIRs is invoked. The 'public interest' has been described as something that is of serious concern or benefit to the public and not merely of individual interest. It has also been stated that the public interest does not mean 'of interest to the public' but 'in the interests of the public'.

The following public interest factors favour the release of the information in this case:

- the public interest in individuals being able to exercise their rights under the EIRs in order to enhance their understanding of the work of a public authority;
- the public interest in members of the public knowing how a public body performs its functions, particularly in the context of the service provided to the public by the Park Authority of a campsite in the National Park
- the public interest in ensuring openness, transparency and accountability in relation to the use of public resources.

The following public interest factors favour withholding the information in this case:

- Visitors are under no legal obligation to provide feedback and do so voluntarily
- Visitors provided feedback with no expectation that their comments would be put into the public domain
- The release of this information into the public domain would be likely to deter future visitors from providing free and honest feedback on their visit

The public interest factors are considered in more detail below

The Park Authority is monitoring the operation of camping permit areas and campsites on an ongoing basis. The publication of user feedback could adversely impact on the quality and quantity of data collected in the future, in particular where people recognise comments that they have made where they understood this information would not be published as raw data. The qualitative data provided in response to the questions highlighted above related to the specific personal experiences of visitors, who provided this feedback for the sole purpose of assisting the Park Authority in monitoring and seeking to improve the camping experience for future visitors.

It has been concluded that there is a greater public interest in using the qualitative data gathered from these feedback questions to make improvements to the service provided, and to avoid any impact on free and honest feedback from future visitors who may be discouraged from providing their personal comments in future should this information be released into the public domain.

4. *"Related to this any information the LLTNPA holds on the numbers of people found in campsites who had not booked and whether they then booked online or not."*

The Park Authority does not hold any information of anyone found at a campsite who had not booked. Accordingly we have to advise under Regulation 10(4)(a) of the EIRs that this information is not held.

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5. *“A copy of all ranger patrol records the LLTNPA holds since the byelaws came into force this year on 1st March until 30th September 2018. Again I would request this on an Excel spreadsheet rather than as a PDF.”*

This information has been withheld from release under Regulations 10(4)(e),10(5)(b) and 10(5)(g) of the EIRs

Application of public interest test

We are required to consider the public interest test when the exception in Regulation 10(4)(e) of the EIRs is invoked. The ‘public interest’ has been described as something that is of serious concern or benefit to the public and not merely of individual interest. It has also been stated that the public interest does not mean ‘of interest to the public’ but ‘in the interests of the public’.

The following public interest factors favour the release of the information in relation in this case:

- the public interest in individuals being able to exercise their rights under the EIRs in order to enhance their understanding of the work of a public authority
- the public interest in members of the public knowing how a public body performs its functions, particularly in the context of the recent introduction of camping management zones in the National Park which have a direct impact on visitors
- the public interest in ensuring openness, transparency and accountability in relation to the use of public resources.

The following public interest factors favour withholding the information in this case:

- The requested information is operational data gathered as part of ongoing monitoring of the operation of the camping management byelaws
- Information gathered on Ranger patrols may be used for evidential purposes in making reports to the Crown Office on byelaw infringement
- The release of internal records gathered for the purpose of monitoring and reporting on the operation of the byelaws may be prejudicial to the outcome of legal processes associated with the enforcement of byelaw contraventions

It has been concluded that the value of the byelaws would be diluted if the information gathered by Rangers that is used to make the case for a prosecution is released into the public domain prior to or during any legal proceedings.

Application of public interest test

We are required to consider the public interest test when the exception in Regulation 10(5)(b) of the EIRs is invoked. The ‘public interest’ has been described as something that is of serious concern or benefit to the public and not merely of individual interest. It has also been stated that the public interest does not mean ‘of interest to the public’ but ‘in the interests of the public’.

The following public interest factors favour the release of the information in relation in this case:

- the public interest in individuals being able to exercise their rights under the EIRs in order to enhance their understanding of the work of a public authority
- the public interest in members of the public knowing how a public body performs its functions, particularly in the context of the recent introduction of camping management zones in the National Park which have a direct impact on visitors.
- the public interest in ensuring openness, transparency and accountability in relation to the use of public resources.

The following public interest factors favour withholding the information in this case:

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- The requested information is operational data gathered as part of ongoing monitoring of the operation of the camping management byelaws
- Information gathered on Ranger patrols may be used, for evidential purposes in making reports to the Crown Office on byelaw infringement
- The release of this information may be prejudicial to the outcome of legal processes associated with the enforcement of byelaw contraventions

It has been concluded that the value of the byelaws would be diluted if the information gathered by Rangers that is used to make the case for a prosecution is released into the public domain prior to or during any legal proceedings.

Application of public interest test

We are required to consider the public interest test when the exception in Regulation 10(5)(g) of the EIRs is invoked. The 'public interest' has been described as something that is of serious concern or benefit to the public and not merely of individual interest. It has also been stated that the public interest does not mean 'of interest to the public' but 'in the interests of the public'.

The following public interest factors favour the release of the information in relation in this case:

- the public interest in individuals being able to exercise their rights under the EIRs in order to enhance their understanding of the work of a public authority
- the public interest in members of the public knowing how a public body performs its functions, in the context of the work of the Ranger service in the National Park
- the public interest in ensuring openness, transparency and accountability in relation to the use of public resources

The following public interest factors favour withholding the information in this case:

- A key factor in the decision to implement the byelaws was the level of environmental damage caused by irresponsible camping over decades in the National Park
- Information recorded by Rangers is used to provide information to the Crown office for the prosecution of byelaw contraventions
- The value of the byelaws would be affected by the release of information gathered by Rangers prior to or during any legal proceedings

It has been concluded that there is a greater public interest in withholding information gathered by Rangers for the prosecution of contraventions of the byelaws as part of measures to protect the special landscape and wildlife habitats of the National Park.

6. *"Information about the number of complaints the LLTNPA has received which are related to the byelaws and Your Park (eg complaints about permit areas, campsites, the booking system, Your Park signage, attitudes of staff)"*

The Park Authority processed 74 frontline complaints in relation to the byelaws and camping management zones for the 2018 season.

- 23 were classified by a generally poor visitor experience
- 19 were received with regards to campers outside of permit areas but inside camping management zones, or campers outside camping management zones.
- 19 frontline complaints were attributed to anti-social behaviour, litter and human waste
- 6 were due to issues with the booking system or information provided online
- 7 were around the introduction/implementation of the byelaws

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“any information the Park holds about complaints made to partners (eg Forest Enterprise Scotland) and “

The Park Authority does not hold information about complaints made to partners. Accordingly we have to advise under Regulation 10(4)(a) of the EIRs that this information is not held.

“any analysis the Park has undertaken of the complaints received.”

A summary of findings in relation to complaints received during the 2018 season in relation to the operation of the camping management zones was recorded as follows:

Complaints, both frontline and formal were much lower in 2018 as the customer facing operation was better prepared to record and approach our engagements with consistency. In addition to the 71 complaints we dealt with, there were a further 111 customer survey comments which we responded to, which were not regarded as frontline complaints, as well as a large number of emails and phone calls throughout the season which were managed as part of our day to day operations.

It is important to note that negative feedback received from the customer satisfaction surveys was not necessarily considered a complaint and was looked at on a case by case basis.

The primary reason for the reduction in complaints from 2017 to 2018, is due to a decrease in complaints about the introduction of the byelaws and complaints about the suitability of pitches at Loch Chon. The pitch issue at Chon was resolved with the introduction of the all-weather pitches.

7. *“Any Operations Ironworks information/data held by the LLTNPA for 2018”*

The Park Authority does not hold information on Operations Ironworks for 2018. Accordingly we have to advise under Regulation 10(4)(a) of the EIRs that this information is not held.

In terms of our requirement to provide advice and assistance under Regulation 9 of the EIRs we can advise that the Park Authority intends to make the Operation Ironworks report publically available when this information is held.

8. *“The number of warnings issued by”*

“a) Rangers” - There were 931 cases where Rangers gave advice on the camping management byelaws and personal details were taken during the 2018 camping season

“b) the Police” – The Park Authority does not hold details of warnings issued by Police Scotland. Accordingly we have to advise under Regulation 10(4)(a) of the EIRs that this information is not held.

“c) other partners for breach of the camping byelaws in 2018” - The Park Authority does not hold details of warnings issued by other partners. Accordingly we have to advise under Regulation 10(4)(a) of the EIRs that this information is not held.

“broken down by first the reason the warning was issued (i.e. failing to give personal details, lighting of fire, camping without a permit, breach of the permit terms and conditions)”

Advice was issued by Rangers on the camping management byelaws in relation to the specific sections as set out in the table below. In some cases there will have been more

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than one byelaw applicable therefore the total is higher than the 931 instances where advice was given.

Section of camping management byelaws	No of cases where advice given on section of camping management byelaws
Byelaw 6a	686
Byelaw 6b	260
Byelaw 7	6
Byelaw 8A	12
Byelaw 8B	47
Byelaw 9	7
Byelaw 13	5

“second by nationality/country of origin”

This information has been withheld as its release would contravene the first, second and seventh Data Protection Principles (DPP).

- In terms of contravention of the first DPP, further processing in the form of publication of this data would be unfair, as it is beyond the reasonable expectation of individuals and no notification was given that the data might be published. As it is unfair, it is therefore also unlawful under the first DPP.
- In terms of contravention of the second DPP, the personal data obtained by the Park Authority was obtained only for specified and lawful purposes in relation to provision of data for the purpose of analysis in relation to the Byelaws now in operation and it should not be further processed in any manner incompatible with those purposes, i.e. in the form of disclosure of the personal data into the public domain.
- In terms of contravention of the seventh DPP, disclosure of the personal data into the public domain would breach this principle by making the personal data available to the world at large with no lawful basis to do so and in contravention of requirements in relation to the security and integrity of the personal data in question.

“third by age (ie whether over 21, between 16 and 21 or under 16)”

There were 12 cases where Rangers gave advice on the camping management byelaws and personal details were taken of persons aged 16, taken as part of a group with older people present.

There were 133 cases where Rangers gave advice on the camping management byelaws and personal details were taken of persons aged 17-21

There were 726 cases where Rangers gave advice on the camping management byelaws and personal details were taken of persons aged over 21 (excluding 21 year olds)

There are 60 cases where a date of birth was either not recorded or has still to be inputted.

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9. "The number of people referred to the Procurator Fiscal for breach of the camping byelaws in 2018 broken down by reason for the referral (ie which byelaw they had breached)"

Reports to Crown Office for contraventions of the camping management byelaws	
Number of people reported	Byelaw
1	Camping Management Byelaws 2017 S7 and S8a Environmental Protection Act 1990 S33
2	Camping Management Byelaws 2017 S7 and S13
1	Camping Management Byelaws 2017 S7, S13 and S14

10. "The number of Fixed Penalty Notices issued by the LLTNPA between 1st March and 30th September 2018 and of these how many were issued to people camping a) with a permit b) without a permit"

There were two Fixed Penalty Notices issued by the Park Authority between 1st March 2018 and 30th September 2018 under the Environmental Protection Act 1990 S33.

There was one Fixed Penalty Notice issued by the Park Authority between 1st March 2018 and 30th September 2018 to those camping and with or without a permit.

Yours sincerely

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

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Review Procedure

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

- Send your request for review in writing, setting out in full the reasons why you are requesting a review.
- Submit your review request 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 Freedom of Information (Scotland) Act 2002, whichever is the later.
- 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

The review 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 Freedom of Information (Scotland) Act 2002, at:

Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS
Tel: 01334 464610
Website: www.itspublicknowledge.info
E-mail: enquiries@itspublicknowledge.info

Online appeal portal: www.itspublicknowledge.info/Appeal

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