



Scottish Natural Heritage

All of nature for all of Scotland

Mr Wyllie

By email: request-35024-aa7d28a3@whatdotheyknow.com

12 July 2010

Our ref: A426958

Dear Mr Wyllie

Information Request – Closed Board Papers

Thank you for your information request. In this letter we will explain to you how we have considered your request, which access to information legislation we have applied, and why we need some additional time to consider your request. We have considered part of your request under the Freedom of Information (Scotland) Act 2002 ('FOISA'). We are considering the remainder of your request under the Environmental Information (Scotland) Regulations 2004 ('the EIRs').

You asked us to provide copies of Board papers, and associated minutes, relating to Closed Session Board meetings between 16 September 2009 to 20 April 2010 and also to Closed Session Board meetings in 2003.

The SNH Board Ways of Working

We thought it would be helpful to explain the difference between the Open and Closed Session in the SNH Board meeting and how we decide the agendas for each session.

The SNH Board meets regularly throughout the year and Members of the public can attend, as observers, all of the Open Session of SNH Board meetings. The Closed Session of the SNH Board meeting is not open to the public and we'd like to explain how we decide which papers are considered in Closed Session.

There is a presumption that SNH Board papers will be considered in Open Session unless there are strong grounds for confidentiality. The Freedom of Information (Scotland) Act 2002 is used, along with the Environmental Information (Scotland) Regulations 2004 and the Data Protection Act 1998, to guide which papers should be dealt with in closed session. Decisions on this are made by the Chairman in consultation with the Deputy Chairman and the Chief Executive.

Papers discussed in the Closed Session are not issued to the public or press, and are not posted on the SNH Website. Board papers which may be dealt with in Closed Session (subject to the views of the Chairman, Deputy Chairman and Chief Executive) include:

- Papers relating to SNH's policy advice to Government or to the Scottish Parliament (including Parliamentary Committees), where this is subject to further discussion with the Executive or has been asked for in confidence.
- Papers containing information, which is the subject of legal proceedings, for example judicial review.



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- Papers relating to appointments to the Committees where these refer to individuals.
- Papers that contain information, which if publicly released would increase the likelihood of damage to the environment.
- Papers, which include 'commercial in confidence' information not already in the public domain.
- Papers where confidentiality is required to protect SNH's negotiating position on a strategy issue or casework.
- Papers, which include information provided to SNH by a third party on a confidential basis, or personal information on an individual who has not given, consent for disclosure.
- Papers relating to personnel and staffing issues.

How We Considered Your Request

We have completed our searches of the information we hold. We have assessed the information identified and concluded that the majority of this is environmental information as defined under Regulation 2(1) of the EIRs and we will therefore respond to you under this legislation.

We have however also identified two papers which we believe do not fall within the definition of environmental information and we are therefore releasing this information to you under FOISA. The papers are;

Date of Board Meeting	Papers or oral discussion
9 December 2009	SNH 09/6/5 Pay of SNH Board & Committee Members 2009/10 Minutes
11 November 2003	SNH/03/7/Info1 Re-appointments to SNH Areas Boards (Information paper only, no minute taken)

As noted, we will respond to the remainder of your request under the EIRs and as soon as possible, but we require some further time to prepare our response.

The EIRs require public authorities to respond to requests for information within 20 working days from the date of receipt, or receipt of clarification. However, Regulation 7(1) of the EIRs makes provision for a Scottish public authority to extend this limit by a further period of up to 20 working days if the volume and complexity of the information requested makes it impracticable for the us either to comply with the request within the first 20 working days or to make a decision to refuse to do so.

Under Regulation 7(3) of the EIRs, we need to explain our reasons for considering the information requested to be voluminous and complex. We need additional time to assess the information to determine if, through the passage of time, the sensitivities associated with each paper and therefore the reason for it having being discussed in Closed Session have changed. This will allow us to determine whether we can release the papers into the public domain, which is the reason for the extended time period.

Review and Appeal

We will issue a response to the remainder of your request as soon as we can within the next 20 working days, however, if you are dissatisfied with how we have responded you have the right to ask us to review our decision to extend the time period. Please write to us at Battleby, Redgorton, Perth, PH1 3EW or email us at foi@snh.gov.uk , explaining your concerns. Our Director of Strategy and Communications, John Thomson or his nominated delegate will carry out a review of our application of the extended response period within 20 working days.

If you are not satisfied following this, you can make an appeal to the Scottish Information Commissioner. The Scottish Information Commissioner can be contacted at:

Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS

Telephone: 01334 464610
<http://www.itspublicknowledge.info/>

Yours sincerely

Rhoda Davidson

Rhoda Davidson
Information Officer