



**Coimisean | Forestry  
na Coilltearachd | Commission**  
Alba | Scotland

Mr Niall Thomson

Via e-mail: [niall](mailto:niall@...)

06 September 2007

**Forest Enterprise  
Head Office Scotland**  
1 Highlander Way  
Inverness Business Park  
Inverness IV2 7GB

Fòn/Tel: 01463 232811  
Facs/Fax: 01463 243846  
[hugh.insley@forestry.gsi.gov.uk](mailto:hugh.insley@forestry.gsi.gov.uk)

Dr Hugh Insley  
Àrd-Oifigear / Chief Executive

Dear Mr Thomson

Thank you for your email of 31 August. I have also received several emails from other members of the Carron Valley Development Group over the past few days. As before, I am writing to you because you are the Chair of the Group, and I think it would be helpful for all concerned if any further correspondence from the Group was channelled through yourself, to avoid any unnecessary duplication or potential confusion.

As you say, it is important that the meeting on 12 September with Michael Matheson has a practical purpose. I would therefore propose that the agenda covers the following issues:

- Forestry Commission Scotland's Recreation Policy
- Partnership Working
- Mountain Biking in West Central Scotland
- The Future for Carron Valley

I can confirm that I will be attending this important meeting and I look forward to a constructive, forward-looking discussion.

Turning to the other points you raise, I firstly wish to refer to the letter I sent you on 24 August. As you know, this letter was copied in a group email to other members of your Group. The intention had been, in fact, to send copies on an individual basis. I apologise for this oversight and I can assure you that steps have been taken to ensure that it does not happen again.

Moving on to Freedom of Information Act issues, my letter of 24 August pointed out that we were considering whether, under guidance from the Information Commissioner's Office and the Department of Constitutional Affairs, we should treat the recent information requests from Group members as being "vexatious" and/or "persistent" within the Freedom of Information Act 2000.



We consider that, under Section 14 of the Act, your Group's recent sudden stream of information requests - some which were detailed/complex, and some which overlapped or duplicated in certain areas – submitted over a very short period of time would cause disproportionate inconvenience or expense (see below). I must emphasise that the intention behind the requests is not the issue here, it is the resultant effect of the requests that leads to the question of whether they can be considered as vexatious. As you will know, there is a balance to be applied between the "right to know" and the need to ensure that the Act does not inhibit governmental efficiency.

We also consider that, under Section 12 of the Act, the staff time involved in dealing with all the recent information requests from your Group would significantly exceed the appropriate cost limit, which is currently £600. We consider that we are free to aggregate the estimated costs, because the following circumstances apply:

- We have received two or more requests for information.
- The requests were from persons who appeared to us to be acting in concert or in pursuance of a campaign. (I am aware that your members say that they are acting as individuals but according to the Act, the key factor in this instance is the perception of the public authority)
- The requests related to the same or similar information.
- We received the requests within a period of 60 consecutive working days. (The 14 requests from your Group were, in fact, all received within 13 working days)

I understand that not all of the information your Group requested may be available but it is clear that the staff cost which would be involved in processing even just two or three of the more detailed requests submitted would significantly exceed the £600 limit. Based on the prescribed £25 per hour per person, this limit converts to approximately 3 man days. And by "processing", I mean the work involved in:

- Determining whether or not we hold the information.
- Finding the information.
- Retrieving the information.
- Extracting or editing material which is exempt from disclosure.

We do, however, wish to help if we can, providing the cost can be kept within the prescribed limits. If, for example, you submitted a single request from the Group outlining the key information you require, then we might be able to assist you.

But for the meantime I must ask you to take this letter as a Refusal Notice applying to all the information requests recently submitted by your Group. You do, of course, have the right to appeal and the first option would be to request an internal review if you are not content with the way we have handled your requests. If this is the case, please contact Dr Bob McIntosh, Director, Forestry Commission Scotland, 231 Corstorphine Road, Edinburgh EH11 1QZ.

However, should we fail to resolve the matter to your satisfaction, you may make an appeal to the Information Commissioner's Office at:

FOI Compliance Team (complaints)  
Information Commissioners' Office  
Wycliffe House  
Water lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 01625 545 700


Fax: 01625 524 510

E-mail: [mail@ico.gov.uk](mailto:mail@ico.gov.uk)

Although we consider that we are not obliged to answer your requests through the Freedom of Information Act procedures, I will say again that we are very keen to meet you and Michael Matheson to go through the agenda I have proposed above. I see this as a more constructive and practical approach for moving forward and I hope that the meeting will serve as a platform for helping to establish a sound future for mountain biking in Carron Valley.

I am copying this letter, on an individual basis, to the other Group members (and associates) who have submitted information requests, and I am also sending a copy to Michael Matheson for background information.

Yours sincerely



**Hugh Insley**  
**Chief Executive**