

APHA FOI Dossier (April 2020)



ATIC1896 - Response: Inspection of salmon farms Inbox x

SM-APHA-Enquiries APHA

Tue, Mar 10, 1:00 PM (23 hours ago)

to me

Ref: ATIC1896

Dear Don Staniford

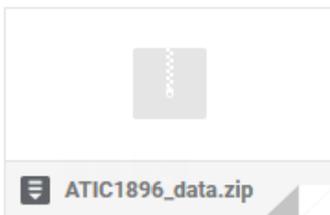
Please accept our apologies for the delay in responding to your request. We have now concluded our response and this is now attached with the information provided.

Many thanks

ACCESS TO INFORMATION TEAM

enquiries@apha.gov.uk

2 Attachments



The Zip file contained 59 PDFs:

Name	Size	Packed Size	Modified
02a Appendix ML02a.pdf	40 155	30 376	2020-03-10 12:48
05 Appendix LDA05.pdf	78 516	56 514	2020-03-10 12:21
04 Appendix LDA04.pdf	162 280	134 278	2020-03-10 12:21
03 Appendix LDA03.pdf	63 645	45 585	2020-03-10 12:21
02 Appendix LDA02.pdf	68 875	50 550	2020-03-10 12:21
01 Appendix LDA01.pdf	138 649	110 835	2020-03-10 12:20
02 Appendix C02.pdf	97 434	89 258	2020-03-10 09:44
01a Appendix C01a.pdf	53 252	45 279	2020-03-10 09:33
01 Appendix C01.pdf	116 979	101 301	2020-03-10 09:25
04 Appendix S04.pdf	47 216	35 623	2020-03-09 16:11
03 Appendix S03.pdf	77 902	65 040	2020-03-09 16:10
02 Appendix NU02.pdf	143 307	132 159	2020-03-09 16:08
07 Appendix Air07.pdf	56 891	40 136	2020-03-09 16:03
01b Appendix ML01b.pdf	61 754	43 817	2020-03-09 15:58
1e Appendix LD01e.pdf	51 166	37 579	2020-03-09 15:55
01d Appendix LD01d.pdf	57 589	39 440	2020-03-09 15:54
02 Appendix LS03.pdf	151 469	138 811	2020-03-09 15:51
04 Appendix V04.pdf	159 381	142 316	2020-03-09 15:44
02 Appendix S02.pdf	36 718	27 646	2020-03-09 13:02
01 Appendix S01.pdf	39 316	30 064	2020-03-09 12:58
02 Appendix MM02.pdf	82 101	67 256	2020-03-09 12:54
01 Appendix MM01.pdf	48 954	40 606	2020-03-09 12:52
02 Appendix M02.pdf	86 469	69 956	2020-03-09 12:50
01 Appendix M01.pdf	62 217	51 464	2020-03-09 12:47
06 Appendix Air06.pdf	52 427	38 300	2020-03-09 12:30
05 Appendix Air05.pdf	40 672	28 751	2020-03-09 12:27
04 Appendix Air04.pdf	38 322	27 708	2020-03-09 12:25
03 Appendix Air03.pdf	67 635	57 961	2020-03-09 12:23
01 Appendix NU01.pdf	42 091	33 945	2020-03-06 17:05
03 Appendix MBDNC03....	133 949	117 912	2020-02-26 13:50
01 Appendix MBDNC01....	246 706	209 801	2020-02-26 13:38
01 Appendix LD01.pdf	125 043	114 724	2020-02-26 11:05
02 Appendix Air02.pdf	88 713	74 060	2020-03-09 12:20
01 Appendix Air01.pdf	49 087	40 722	2020-03-09 12:15
01 Appendix MNS01.pdf	142 611	116 308	2020-03-09 12:12
02 Appendix MCF02.pdf	32 650	26 966	2020-03-09 12:00
01 Appendix MCF01.pdf	139 587	125 198	2020-03-09 11:54
03 Appendix ML03.pdf	56 741	39 441	2020-03-06 19:02
02 Appendix ML02.pdf	94 328	79 443	2020-03-06 19:02
01a Appendix ML01a.pdf	41 214	31 787	2020-03-06 18:53
01 Appendix ML01.pdf	78 744	72 412	2020-03-06 18:51
04 Appendix MBDNC04....	34 106	27 719	2020-03-06 18:49
02 Appendix MBDNC02....	164 249	96 588	2020-03-06 18:46
02 Appendix MA02.pdf	37 372	29 457	2020-03-06 18:36
01 Appendix MA01.pdf	39 668	30 578	2020-03-06 18:34
03 Appendix LD3.pdf	51 339	36 692	2020-03-06 18:30
02 Appendix LD2.pdf	31 279	24 639	2020-03-06 18:30
01c Appendix LD01c.pdf	39 664	29 450	2020-03-06 18:23
01b Appendix LD01b.pdf	40 452	29 681	2020-03-06 18:21
01a Appendix LD01a.pdf	39 161	30 158	2020-03-06 18:19
01a Appendix GS01a.pdf	34 954	28 235	2020-03-06 18:13
01 Appendix GS01.pdf	123 738	112 763	2020-03-06 18:10
02 Appendix GS02.pdf	118 504	106 031	2020-03-06 18:06
02 Appendix LS02.pdf	111 829	102 790	2020-03-06 17:49
01 Appendix LS01.pdf	53 695	45 492	2020-03-06 17:43
03 Appendix V03.pdf	48 667	38 731	2020-03-06 17:34
02 Appendix V02.pdf	162 735	154 804	2020-03-06 17:30
01 Appendix V01.pdf	62 052	52 803	2020-03-06 17:26
01 Appendix T01.pdf	53 657	46 399	2020-03-06 17:15



Animal &
Plant Health
Agency

Animal and Plant Health Agency
Access to Information Team
Woodham Lane
New Haw
Addlestone
Surrey
KT15 3NB

enquiries@apha.gov.uk

www.gov.uk/apha

Our Ref: ATIC1896

Don Staniford
{By Email}

10 March 2020

Dear Don Staniford

PROVISION OF REQUESTED INFORMATION

Thank you for your request for information regarding inspections of salmon farms which we received on 12 November 2019. Your request has been handled under the Freedom of Information Act 2000 (FOIA).

The information you requested and our response is detailed below:

“Please provide information relating to inspections of salmon farms in Scotland since 1 January 2018. Please includes emails, letters, reports and any other information in relation to inspections of salmon farms.....Please include information relating to Mowi - in particular to Bagh Dail Nan Ceann (Bay of the Dead Heads)”.

To assist you with your request we have laid out the APHA role in fish farming:

- APHA are concerned with the welfare of farmed fish, including the investigation of allegations
- The Fish Health Inspectorate (FHI) Marine Scotland are responsible for investigating reports of mortalities and monitoring the health of farmed fish and wild fish
- Local Authorities are responsible for any potential breaches in the Animal-by-Product legislation

APHA have attached documentation to all the welfare related inspections undertaken between 1 January 2018 and the date of your request. The names of the farms visited and the reasons can be seen within the documentation which has been indexed at Annex B attached.

APHA is an Executive Agency of the Department for Environment, Food and Rural Affairs and also works on behalf of the Scottish Government, Welsh Government and Food Standards Agency to safeguard animal and plant health for the benefit of people, the environment and the economy.

You will see the majority of the information retained by APHA as part of these visits are the forms, WF77 Initial Welfare incident record form, WF152 Fish Farm Inspection Report and WF151 Report on Fish Welfare for Scottish Government. Please note that no photos were taken as part of our inspections and so are not held. The majority of correspondence is verbal rather than recorded.

We confirm that APHA does hold the information that you have requested and have included the documentation. However, following careful consideration, we have decided that some of it should be withheld or redacted (blacked out) under the following exemptions:

Section 40 – Personal Information

The information being withheld falls under sections 40(2) and 40(3A) of the FOIA as the information constitutes personal data relating to persons other than you. These sections exempt personal information from disclosure if it relates to someone other than the applicant, and if disclosure of that information would breach any of the data protection principles in Article 5(1) of the General Data Protection Regulation (GDPR).

We consider that disclosure of this information is likely to breach the first data protection principle, which provides that personal data must be processed lawfully, fairly, and in a transparent manner. Disclosure would not constitute 'fair' processing of the personal data because individuals names and details such as telephone numbers, are held to allow APHA to conduct our business. Those persons, such as APHA staff, farmers and veterinary surgeons would not reasonably have expected their names and details to be made public.

Section 31 - Law Enforcement

Section 31(1)(g) states:

31 – (1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice –

(g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2)

This is read in conjunction with the following sub sections:

- 31 – (2)(a) the purpose of ascertaining whether any person has failed to comply with the law,

The information contained within the inspection reports is withheld. The information gathered at the time of inspection is the information that would be used, if appropriate, to forward to the necessary authorities for any further proceedings, should that be necessary. The source of the investigation is also withheld.

Investigations into allegations of poor welfare, particularly those protected by section 31(1)(g) via 31(2), can be aided by either individuals, or organisations providing

information to the APHA. Such information is either volunteered by a confidential source, for example someone who has provided information on the understanding that they will not be identified and the information and identity of its source will be protected by section 30(2). However, even where the provider of the information is not a confidential source, APHA consider there is still a public interest in not releasing the details of those providing information so as to not discourage others from providing information on a voluntary basis.

Public Interest Test

The exemption in section 31 is subject to a Public Interest Test to ensure it is being appropriately applied.

We recognise that there is a public interest in disclosure of this specific information in order to increase transparency and aid well-informed debates concerning our work on investigating farm welfare complaints. However, the public interest in withholding the information arises from the fact that investigations concern the fish welfare and if necessary, ability to continue inspections for any improvements. Release of investigatory information will disrupt this process and would be likely to prejudice the ability for the Local Authorities and/or Fish Health Inspectorates to perform their functions.

Therefore we have concluded the public interest in withholding this part of the information outweighs that in disclosure.

Section 43 – Commercial Interests

Within the forms provided, APHA has withheld commercially sensitive information which has been provided to them by a third party. Following considerations into this request, APHA have considered the level of harm and the impact possible disclosure would have and have withheld this information under Section 43(2) – Prejudice to Commercial Interest.

The Incident Record forms hold the allegations made from anonymous sources. It may be harmful should the allegations be released as the report does not show any verifications. This information if released could be used against the farms to increase negative publicity.

Public Interest Test

The exemption in Section 43 is subject to a Public Interest Test to ensure it is being appropriately applied.

The disclosure of the information you have requested has the potential to prejudice the commercial interests of the 3rd party and breach confidentiality between APHA and the farm. We believe that a breach of this confidentiality could potentially lead to an adverse

APHA is an Executive Agency of the Department for Environment, Food and Rural Affairs and also works on behalf of the Scottish Government, Welsh Government and Food Standards Agency to safeguard animal and plant health for the benefit of people, the environment and the economy.

working relationship and would interfere with APHA carrying out its statutory duties. The data recorded during our inspections is part of our business in order to determine the weight of any allegations and to undertake regular inspections in order to identify any non-compliances. We also believe in releasing information on a particular farm could interfere with the business and running of a farm in competition with its competitors. APHA record this information in the course of welfare inspections.

Therefore, we have concluded that, in all the circumstances of the case, the information should be withheld.

Information disclosed in response to this FOI request is releasable to the public. In keeping with the spirit and effect of the FOI and the government's Transparency Agenda, this letter and the information disclosed to you may be placed on GOV.UK, together with any related information that will provide a key to its wider context. No information identifying you will be placed on the GOV.UK website.

Annex A is attached which explains the copyright that applies to the information being released to you and contact details should you be unhappy with the service you have received.

If you have any queries about this letter, please contact the Access to Information Team at the email address below or postal address at the top of this letter.

Yours sincerely

ACCESS TO INFORMATION TEAM

Email: enquiries@apha.gov.uk

Annex B

Index of attached documentation

Appendix Reference	Name of Farm
C01, C01a and C02	Complaints on various farms
GS01, GS01a and GS02	Greig Seafoods
LD01, LD01a to e and LD02 to LD03	Loch Duart
MA01 to MA02	MOWI Ardgour
MBDNC01 to MBDNC04	MOWI BDNC
ML01, ML01a to b and ML02, ML02a and ML03	MOWI Lochailort
MCFF01 to MCFF02	MOWI MCFF
MNS01	MOWI North Shore
AIR01 to AIR07	Scottish Salmon Co-Aird
LDA01 to LDA05	Scottish Salmon Co-Loch Damp
M01 to M02	Scottish Salmon Co-Maay
MM01 to MM02	Scottish Salmon Co-Maragay
NU01 to NU02	Scottish Salmon Co-North Uiskevah
S01 to S04	Scottish Salmon Co-Scallaste
T01	Scottish Salmon Co-Torridon
V01 to V04	Scottish Salmon Co-Vacasay
LS01 to LS03	Scottish Sea Farms

From: **Don Staniford** <salmonfarmingkills@gmail.com>
Date: Mon, Apr 20, 2020 at 10:03 AM
Subject: Re: ATIC1896 - Response: Inspection of salmon farms
To: SM-APHA-Enquiries APHA <enquiries@apha.gov.uk>

Please note that the 40 working days deadline just passed but Scottish Salmon Watch still intends to file a formal review request.

In view of APHA's late response to the original FOI and the exceptional circumstances re. Coronavirus (including an extended school holiday) I assume that a few days lateness will be acceptable.

Please confirm that a review request filed this week (probably tomorrow) is acceptable.

Thanks,

Don Staniford

Director, Scottish Salmon Watch

From: **SM-APHA-Enquiries APHA** <enquiries@apha.gov.uk>
Date: Mon, Apr 20, 2020 at 1:16 PM
Subject: ATIC1896 - Internal Review
To: Don Staniford <salmonfarmingkills@gmail.com>

ATIC1896

Dear Don Staniford

APHA note you have referred to request referenced ATIC1896. We will of course, consider an internal review on that response.

Once we have received this from you this week, our review can commence.

Many thanks

ACCESS TO INFORMATION TEAM
enquiries@apha.gov.uk

From: Don Staniford <salmonfarmingkills@gmail.com>
Date: Mon, Mar 9, 2020 at 11:10 AM
Subject: Re: ATIC1896 and ATIC1836 Complaints Procedure
To: SM-APHA-Enquiries APHA <enquiries@apha.gov.uk>

Our patience is wearing very thin.

You wrote on 26 February 2020:

"We are working on your requests and they have not been forgotten. You will appreciate that the information you have requested is third party information and we are giving careful consideration on the public interest of release, which is one of the issues on the length of time taking to respond. We are making every effort and it is planned to have a response to both requests out to you next week."

Where are the responses planned for last week?

I see that APHA had time to speak at a conference last week:
<https://www.fishfarmermagazine.com/news/fish-welfare-complaints-can-be-taken-out-of-context/>

It would be much appreciated if you had the time to respond to our FOI request/review.

Thanks,

Don

From: SM-APHA-Enquiries APHA <enquiries@apha.gov.uk>
Date: Wed, Feb 26, 2020 at 5:57 PM
Subject: ATIC1896 and ATIC1836 Complaints Procedure
To: Don Staniford <salmonfarmingkills@gmail.com>

Dear Don Staniford

We have apologised and indicated the delay of our response to you and advised when the late response is likely to be issued to ATIC1896.

Our Access to Information complaints procedure is always attached as an Annex to our responses to you for previous requests for information, as similarly worded below:

Access to Information Complaints Procedure

If you are unhappy with the service you have received in relation to your request, you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 11 of the EIRs, as applicable, within 40 working days of the date of our response. Please email enquiries@apha.gov.uk and the team will arrange for an internal review of your case. Please be aware this is the stage we are currently at with ATIC1836. Unlike Freedom of Information requests, there is no statutory time frame for carrying out internal reviews. We have advised you today, that a response is hoped to be with you next week.

If you are not content with the outcome of the internal review (ATIC1836), section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner's Office (ICO) for a decision. Please note that generally the ICO cannot make a decision unless you have first exhausted APHA's own complaints procedure.

The ICO can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

In addition, APHA general complaints procedure can be found on [GOV.UK](https://www.gov.uk/government/organisations/animal-and-plant-health-agency/about/complaints-procedure#how-to-complain). Please click the link below.

<https://www.gov.uk/government/organisations/animal-and-plant-health-agency/about/complaints-procedure#how-to-complain>

With thanks

ACCESS TO INFORMATION TEAM
enquiries@apha.gov.uk

From: Don Staniford [mailto:salmonfarmingkills@gmail.com]
Sent: 26 February 2020 17:19
To: SM-APHA-Enquiries APHA <enquiries@apha.gov.uk>
Subject: Re: Update: ATIC1896 request for information and ATIC1836 Internal Review

Your delay is unacceptable and a breach of the law.

Please provide the information ASAP or give reasons for refusal so a review request and appeal can be filed in a timely manner.

Your lengthy delay is rendering the information requested redundant and out of date.

Could you please provide a copy of your complaints procedures?

Thanks,

Don

From: **SM-APHA-Enquiries APHA** <enquiries@apha.gov.uk>
Date: Wed, Feb 26, 2020 at 4:39 PM
Subject: Update: ATIC1896 request for information and ATIC1836 Internal Review
To: Don Staniford <salmonfarmingkills@gmail.com>

Ref: ATIC1896 and 1836

Dear Don Staniford

APHA send our sincere apologies to you and regret that you have still not received a response to your request for information relating to inspections of salmon farms in Scotland since 1 January 2018 (ATIC1896) and your request to an internal review (ATIC1836). We also apologise for not keeping you updated with progress.

We are working on your requests and they have not been forgotten. You will appreciate that the information you have requested is third party information and we are giving careful consideration on the public interest of release, which is one of the issues on the length of time taking to respond.

We are making every effort and it is planned to have a response to both requests out to you next week.

ACCESS TO INFORMATION TEAM
enquiries@apha.gov.uk

From: **Don Staniford** <salmonfarmingkills@gmail.com>
Date: Mon, Feb 10, 2020 at 10:02 AM
Subject: Re: Internal review request re. ATIC1836
To: SM-APHA-Enquiries APHA <enquiries@apha.gov.uk>

Do you know when APHA will reply (re. ATIC1836 Internal review)?

APHA is clearly way beyond the 40 day deadline from the review request filed on 25 October 2019.

Thanks,

Don Staniford

Director, Scottish Salmon Watch

----- Forwarded message -----

From: **Don Staniford** <salmonfarmingkills@gmail.com>
Date: Mon, Feb 10, 2020 at 9:56 AM
Subject: Re: ATIC1896 - Freedom of Information Request update
To: SM-APHA-Enquiries APHA <enquiries@apha.gov.uk>

Scottish Salmon Watch's FOI request of 12 November has still not been replied to.

APHA wrote on 20 November 2019: "APHA may require the full legislative 40 working days from your initial request to respond."

APHA wrote on 10 December 2019: "APHA regret to inform you that we are unable to meet the 20 day legislative deadline to provide a full response".

It is now nearly two months since the last non-reply and nearly three months since Scottish Salmon Watch's FOI request.

When do you think APHA will reply? APHA is clearly outside the legislative deadline already. A reply ASAP would be much appreciated or Scottish Salmon Watch will have no choice but to file an official complaint.

Thanks,

Don Staniford

Director, Scottish Salmon Watch

----- Forwarded message -----

From: **SM-APHA-Enquiries APHA** <enquiries@apha.gov.uk>

Date: Tue, Dec 10, 2019 at 6:42 PM
Subject: ATIC1896 - Freedom of Information Request update
To: Don Staniford <salmonfarmingkills@gmail.com>

Ref: ATIC1896

Good evening Don Staniford

Further to your request for information as attached, APHA regret to inform you that we are unable to meet the 20 day legislative deadline to provide a full response.

The reason being is the wide scope of your request.

You have asked for emails, letters, reports and any other information regarding inspections of salmon farms from 1 January 2018. We are making every effort to provide this information to you but as you have not specified any particular farm and have requested various forms of information and over a wide span of time, the review and collation of this data is taking some time.

We will continue to work on this request and will keep you updated with any progress.

In the meantime, should you have any queries please contact the Access to Information team and the email address below.

ACCESS TO INFORMATION TEAM
enquiries@apha.gov.uk

From: **SM-APHA-Enquiries APHA** <enquiries@apha.gov.uk>
Date: Wed, Nov 20, 2019 at 9:48 AM
Subject: RE: Internal review request re. ATIC1836
To: Don Staniford <salmonfarmingkills@gmail.com>

Dear Don Staniford

Reference ATIC1836 Internal review

APHA apologise but we will not be able to respond to your request within the initial deadline stated, as the request is complex and requires information from various sources and in various formats. APHA may require the full legislative 40 working days from your initial request to respond.

Please be assured of our best intentions and we will make every effort to respond prior to that legislative deadline.

Regards

enquiries@apha.gov.uk

From: SM-APHA-Enquiries APHA
Sent: 13 November 2019 10:13
To: Don Staniford <salmonfarmingkills@gmail.com>
Subject: Freedom of Information ATIC1896

Ref: ATIC1896

Dear Don Staniford

Thank you for your request for information about inspections at salmon farms, which we received on 12 November 2019. Your request is being considered in respect to the access to information legislation.

As required by the legislation, we aim to answer your request within 20 working days from the date we received it. If for any reason we are unable to meet this deadline we will keep you fully informed of the reasons for this.

In the meantime, if you have any queries, please contact the Access to Information Team at the email address below.

ACCESS TO INFORMATION TEAM

enquiries@apha.gov.uk

From: Don Staniford <salmonfarmingkills@gmail.com>
Date: Tue, Nov 12, 2019 at 12:11 PM
Subject: FOI re. inspections of salmon farms since 1 January 2018
To: Enquiries APHA <enquiries@apha.gsi.gov.uk>
Cc: <APHA.Scotland@apha.gsi.gov.uk>

Please provide information relating to inspections of salmon farms in Scotland since 1 January 2018.

Please includes emails, letters, reports and any other information in relation to inspections of salmon farms.

Please note that a separate FOI request (ATIC1836) in relation to photos has been refused by APHA and is currently undergoing a review (filed by Scottish Salmon Watch on 25 October 2019 - enclosed below). You may wish to consider this new FOI in the context of that FOI review reply.

Please include information relating to Mowi - in particular to Bagh Dail Nan Ceann (Bay of the Dead Heads). Mowi issued a press release on 30 October 2019 detailing:

<https://mowiscotland.co.uk/2019/10/30/warm-temperatures-challenge-fish-health/>



A recent inspection of Mowi's Bagh Dail nan Ceann farm by the Animal and Plant Health Agency (APHA) raised concern that lumpfish* health and welfare was not adequately managed during a month that saw the highest average sea temperatures.

On September 16th, 2019, APHA communicated to Mowi by letter that "You have not been able to show that adequate actions were taken in the period between 10/7/19 to the 12/08/19 in order to promote the welfare of the lumpfish under your responsibility. Not taking effective decision at earlier date has prolonged the period while the lumpfish still at the site have been in need to be protected from suffering and disease."

Mowi staff have since met with APHA inspectors to discuss the agency's concerns and to ensure fish welfare remains top priority for the company and its employees.

In July 2019, Scottish Salmon Watch visited Mowi's Bagh Dail Nan Ceann salmon farm:
<https://donstaniford.typepad.com/my-blog/2019/07/secret-filming-in-scotland-july-2019-.html>

Scottish Salmon Watch wrote to APHA on 18 and 20 July 2019:
<https://donstaniford.typepad.com/files/letter-re.-bdnc-breach-of-animal-health-welfare-act-2006-20-july-2019.pdf>

Please provide a receipt for this FOI receipt.

Please provide this information electronically.

Please consider this a FOI request under the relevant FOI and Environmental Information regulations.

Thanks.

Don Staniford

Director of Scottish Salmon Watch

From: Don Staniford <salmonfarmingkills@gmail.com>
Date: Fri, Oct 25, 2019 at 2:50 PM
Subject: Internal review request re. ATIC1836
To: SM-APHA-Enquiries APHA <enquiries@apha.gov.uk>

Please consider this a formal request for a review of ATIC1836.

Suffice to say that APHA's interpretation of FOIA and Environmental Information regulations is fundamentally different to the Scottish Government's interpretation of a carbon copy FOI request.

Please read the Scottish Government reply and disclosure relating to FOI-19-02133 (the same FOI request filed with APHA) via <https://www.gov.scot/publications/foi-19-02133/>

For more background please read:

[The Ferret: "Scottish Government rejects industry pleas on sick salmon photos"](#)
[EXPOSED: Photo Disclosures Opens Floodgates to More Diseased & Deformed Scottish Salmon](#)

Scottish Salmon Watch requests that APHA reviews their FOI reply and releases the information requested. We would be only too happy to take a case to the Information Commission which, in light of the Scottish Government's disclosure, we feel confident of winning.

Please by all means redact the names of APHA staff if you must protect their identities. Scottish Salmon Watch's FOI is aimed at seeking information on photos and any discussions surrounding photos.

To reiterate Scottish Salmon Watch's FOI request dated 16 September 2019:

"Please provide information since 1 January 2018 in relation to photos of farmed salmon and salmon farms.

Please include photos obtained via APHA inspections, unannounced site visits, email correspondence with salmon farming companies, whistleblowers & vets and other sources.

Please include correspondence, emails, letters, press briefings and other information relating to photos including the non-disclosure and non-publication of photos.

Please include any legal correspondence with lawyers acting for salmon farming companies"

In order to avoid a time-consuming and wasteful appeal to the Information Commissioner, Scottish Salmon Watch looks forward to receiving the information requested. APHA is strongly encouraged to [read the Scottish Government's FOI reply](#) which any sensible reader can only concur is the correct reply.

What is APHA trying to hide?

APHA's argument that disclosure would "endanger the health and safety of individuals and staff" is as preposterous as it is nebulous.

Notwithstanding such a ludicrous argument this is negated by Scottish Salmon Watch's concession that personal data (hence the identification of individuals and staff) is redacted.

Finally, APHA's review team should be aware that information identifying particular sites via Fish Health Inspectorate visits to salmon farms is already in the public domain and published monthly online via <https://www2.gov.scot/Topics/marine/Fish-Shellfish/FHI/CaseInformation/Caseinfo>

Consequently, APHA's arguments that there is a "risk to individuals health and safety"; "could prejudice the commercial interests" (of salmon farming companies) and "could lead to financial losses" and "financial damage" simply does not wash.

It is shocking that APHA maintains that "the commercial interests of our customers outweighs that of the public right to know".

Surely customers of supermarkets buying farmed salmon have a right to know if they're sourced from disease-ridden farms? Surely customers of restaurants have a right to know which businesses are guilty of welfare abuse?

If APHA's sole duty is to salmon farmers and protecting this disease-ridden industry from public scrutiny then it is surely a Government agency operating against the public interest and outwith FOIA laws. Scottish Salmon Watch looks forward to debating these issues further and making a formal submission and appeal to the Information Commissioner.

Please provide a receipt for this FOI review request.

Best fishes,

Don Staniford

Director of Scottish Salmon Watch

From: **SM-APHA-Enquiries APHA** <enquiries@apha.gov.uk>

Date: Fri, Oct 11, 2019 at 9:05 AM

Subject: Freedom of information ATIC1836

To: Don Staniford <salmonfarmingkills@gmail.com>

Ref: ATIC1836

Dear Don Staniford

Thank you for your request for information which we received on 16 September 2019. Please see our response attached.

Regards

ACCESS TO INFORMATION TEAM

enquiries@apha.gov.uk

ATIC1836

Don Staniford
{By Email}

11 October 2019

Dear Don Staniford

PROVISION OF REQUESTED INFORMATION

Thank you for your request for information regarding salmon farming we received on 16 September 2019. Your request has been handled under the Freedom of Information Act 2000 (FOI).

The information you requested and our response is detailed below:

"Please provide information since 1 January 2018 in relation to photos of farmed salmon and salmon farms.

Please include photos obtained via APHA inspections, unannounced site visits, email correspondence with salmon farming companies, whistleblowers & vets and other sources.

Please include correspondence, emails, letters, press briefings and other information relating to photos including the non-disclosure and non-publication of photos.

Please include any legal correspondence with lawyers acting for salmon farming companies."

The information that you have requested is exempt from release under the legislation in relation to the following sections:

Section 40

The information contained within the requested documents has been withheld under section 40(2), read in conjunction with 40(3)(a)(i) (third party personal data), of the FOIA as the information constitutes personal data relating to a third party. Section 40(2), read in conjunction with 40(3)(a)(i), of the FOIA provides that personal data relating to third parties is exempt information if disclosure would breach the Data Protection Act 2018

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The Animal and Plant Health Agency is an Executive Agency of the Department for Environment, Food and Rural Affairs working to safeguard animal and plant health for the benefit of people, the environment and the economy.

(DPA).

APHA consider that disclosure of this information is likely to breach the first data protection principle in Schedule 1 of the DPA, which relates to the fair and lawful processing of personal data, in two ways. First, disclosure would not constitute 'fair' processing of the personal data, second, disclosure would not satisfy any of the conditions for data processing set out in Schedule 2 to the DPA. Therefore, we have concluded that this information is exempt from disclosure under section 40 of the FOIA.

Further to this;

Section 38

Section 38 refers to the exemption from the duty to provide information if it would, or would be likely to affect anyone's health or safety. The exemption in Section 38 is subject to a Public Interest Test to ensure it is being appropriately applied.

Public Interest Test

We recognise that there is a general presumption in favour of transparency and openness concerning our work, and providing the general public with the right to request access to information held by public authorities.

We also recognise that there is a public interest in disclosure of this specific information in order to increase this transparency and openness concerning our work, and providing the general public with the right to request access to information held by public authorities.

However, we feel that there is a stronger public interest in withholding the information as the full details would identify further information and would, or would be likely to, endanger the health and safety of individuals and staff. This poses a substantial risk to the health and safety of individuals associated with salmon farming or on salmon farms that should be of significant severity and is likely to occur in some cases.

We consider this to be a significant factor in favour of maintaining the exemption. APHA has balanced the real threat to the health and safety of individuals which disclosure of the requested information would be likely to cause, against the public interest arguments in favour of disclosure. In this instance the APHA does not consider that disclosing the information requested in order to inform public debate and to promote accountability and transparency would justify the risk to individuals' health and safety.

The following section has also been applied:

Section 43

Section 43(2) of the FOIA exempts information if its disclosure under the Act would or would be likely to prejudice the commercial interests of any person. The exemption in

[Type here]

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Section 43 is subject to a Public Interest Test to ensure it is being appropriately applied.

Public Interest Test

APHA recognises that there is a general presumption in favour of openness and transparency concerning our work, and providing the general public with the right to request access to information held by public authorities.

However, APHA's relationship with Salmon Farmers and farms is based on trust. Releasing this information could prejudice the commercial interests of any such establishments and mislead the general public, who would base their opinions on such information even if any potential problems had been rectified. This could lead to financial losses, whether through a loss of trust and custom or through the cost in time, or of repairing reputational damage.

Furthermore, this would result in breach of confidentiality between APHA and its customers and could potentially lead to an adverse working relationship and interfere with the relevant Public Authority carrying out its statutory duties.

APHA have concluded that, the commercial interest of our customers outweighs that of the public right to know.

Information disclosed in response to this FOI request is releasable to the public. In keeping with the spirit and effect of the FOI and the government's Transparency Agenda, this letter and the information disclosed to you may be placed on GOV.UK, together with any related information that will provide a key to its wider context. No information identifying you will be placed on the GOV.UK website.

I attach an Annex which explains the copyright that applies to the information being released to you and contact details should you be unhappy with the service you have received.

If you have any queries about this letter, please contact the Access to Information Team at the email address below or postal address at the top of this letter.

Yours sincerely

ACCESS TO INFORMATION TEAM

Email: enquiries@apha.gov.uk

[Type here]

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Annex

Copyright

The information supplied to you is Crown copyright, unless otherwise stated, and is protected by the Copyright, Designs and Patents Act 1988. You are free to use it for your own purposes, including for the purposes of news reporting. You can find details on the arrangements for re-using Crown copyright information at:

<http://www.nationalarchives.gov.uk/doc/open-government-licence/open-government-licence.htm>

Information you receive which is **not** subject to Crown Copyright continues to be protected by the copyright of the person, or organisation, from which the information originated. You must ensure that you gain their permission before reproducing any third party (non Crown Copyright) information.

Complaints

If you are unhappy with the result of your request for information you may request an internal review within 40 working days of the date of this letter.

If you wish to request an internal review, please contact: The Access to Information Team at enquiries@apha.gov.uk or at the postal address at the top of this letter, who will arrange for an internal review of your case.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted APHA's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

From: **Don Staniford** <salmonfarmingkills@gmail.com>

Date: Mon, Sep 16, 2019 at 8:18 PM

Subject: FOI re. photos of farmed salmon & salmon farms since 1 January 2018

To: Enquiries APHA <enquiries@apha.gsi.gov.uk>

Please provide information since 1 January 2018 in relation to photos of farmed salmon and salmon farms.

Please include photos obtained via APHA inspections, unannounced site visits, email correspondence with salmon farming companies, whistleblowers & vets and other sources.

Please include correspondence, emails, letters, press briefings and other information relating to photos including the non-disclosure and non-publication of photos.

Please include any legal correspondence with lawyers acting for salmon farming companies.

Please provide a receipt for this FOI request.

Please provide the information electronically.

Please consider this a FOI request under the relevant FOI and Environmental Information regulations.

Thanks,

Don

----- Forwarded message -----

From: **Don Staniford** <salmonfarmingkills@gmail.com>

Date: Mon, Sep 16, 2019 at 6:57 PM

Subject: FOI re. photos from FHI Case Information; emails and other details re. photos since June 2018

To: <ceu@scotland.gsi.gov.uk>

Cc: <Neil.Purvis@gov.scot>, <Helen.McGregor@gov.scot>

Please provide information since 1 June 2018 in relation to photos of farmed salmon - over and above photos already disclosed via FOI:

[EXPOSED: Gruesome Photos of Deformed & Diseased Scottish Salmon](#)

[Horror photos of farmed salmon spark legal threat](#)

[Hard Evidence: Photos of Diseased & Deformed Scottish Salmon](#)

Please include photos obtained via FHI inspections, unannounced site visits, email correspondence with salmon farming companies, whistleblowers & vets and other sources.

Please include correspondence, emails, letters, Cabinet Briefings, press briefings and other information relating to photos including the non-disclosure and non-publication of photos.

Please include any legal correspondence with lawyers acting for salmon farming companies - over and above the information already provided: [Salmon firms bid to block diseased photos](#)

Please explain why photos of diseased farmed salmon are absent from much of the FHI case information. For example, the FHI Case Information for April 2019 includes this reference to the Scottish Salmon Company's site at Gometra:

Additional Case Information:

Escape event 06/11/2018 (MSe061118SAL1) no fish thought to have escaped at time of event. Count carried out during grading on 25/03/2019, numbers came back the same as expected showing no loss. All nets changed to hdpe nets.

Strategic AGD treatment using H2O2 carried out 22/02/19. Pen 3 and 7 had increased mortality post treatment due to physical damage, net bagged during crowding for treatment. Bad scaling and rubbing as fish were burrowing down into the net during treatment led to lesions after treatment. Mortalities have gradually decreased since time of event and are below reporting threshold.

Fish sampled for VMD showed no signs of ill health externally and internally. No sea lice were visible.

Risk based inspection brought forward following report from company of the increased mortalities late February due to physical damage.

p17 via <https://www2.gov.scot/Resource/0054/00547495.pdf>

But where are the photos?

The FHI Case Information for June 2019 for The Scottish Salmon Company's Aird salmon farm also does not include photos (from p94 via <https://www2.gov.scot/Resource/0054/00548048.pdf>).

In fact, the inclusion of photos relating to salmon farm inspections appears to have become the exception not the norm. For example, during 2019 photos were published for Mowi's Kingairloch and Rum salmon farms:

- [Cardiac Disease Arrests Mowi in Kingairloch](#)
- [Mowi's Welfare Nightmare on Rum - "blind", "physical damage", "anorexic" & over 40,000 dead fish!](#)

Please therefore provide information relating to photos of farmed salmon since 1 June 2018.

Please provide a receipt for this FOI request.

Please provide the information electronically.

Please consider this a FOI request under the relevant FOI and Environmental Information regulations.

Thanks,

Don

Key documents online:

[APHA Response ATIC1896 10 March 2020](#)

[APHA Response Internal Review ATIC1836 10 March 2020](#)

[APHA refusal 11 Oct 2019 ATIC1836](#)

Read more via: [Censored: Welfare Abuse on Salmon Farms](#)