



T : Working from home please contact by email
E : kate.webb@gov.scot

Don Staniford
salmonfarmingkills@gmail.com

Our Reference: 202300376448

Your Reference: Request for Source Documents on Jellyfish inside and around salmon farms

11 October 2023

Dear Don Staniford,

REQUEST UNDER THE ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004 (EIRs)

Thank you for your request dated 15 September 2023 which you made as part of your request for a review of our response to your original EIR case reference number 202300372264.

Your request

You asked for us to: *"provide the source documents and the 'advice' cited above."*

For context, by "above", you are referring to wording contained within Annex A of our response to your previous EIR request handled under case reference number 202300372264.

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.

Response to your request

I enclose a copy of most of the information you requested. Please find PDFs 1, 2 & 3 enclosed.

While our aim is to provide information whenever possible, in this instance we are unable to provide some of the information you have requested because exceptions under regulation 10(4)(e) (internal communications) and regulation 11(2) (personal data of a third party) of the EIRs applies to that



information. The reasons why these exceptions apply 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 Annabel Turpie, The Director of the Marine Directorate, Victoria Quay, The Shore, Edinburgh, EH6 6QQ or by emailing: directormarine@gov.scot

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>

ANNEX

REASONS FOR NOT PROVIDING INFORMATION

Exceptions apply

Regulation 10(4)(e) – internal communications in relation to SPQ background notes, Ministerial/media briefings, lines to take, etc.

An exception under regulation 10(4)(e) of the EIRs (internal communications) applies to some of the information you have requested because it is an internal communication of a First Minister's Questions (FMQ) Briefing document prepared by a Marine Directorate Policy Officer.

This exception 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 exception. We have found that, on balance, the public interest lies in favour of upholding the exception. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate.

However, there is a greater public interest in allowing a private space within which officials can provide free and frank advice and views to Ministers in briefing for FMQ answers. It is clearly in the public interest that Ministers can properly answer Parliamentary questions and robustly defend the Government's policies and decisions. They need full and candid advice from officials to enable them to do so. Disclosure of this type of information could lead to a reduction in the comprehensiveness and frankness of such advice and views in the future, which would not be in the public interest.

Regulation 11(2) – applicant has asked for personal data of a third party

An exception under regulation 11(2) of the EIRs (personal information) applies to some of the information requested because it is personal data of a third party and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018. This exception is not subject to the 'public interest test', so we are not

required to consider if the public interest in disclosing the information outweighs the public interest in applying the exception.

Yours sincerely

Kate Webb
Marine Directorate FOI/EIR Adviser

